

Chapter 9

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Article 9.05

GENERAL LICENSES

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9.05.010 Definition.

For purposes of chapter 9, the following mean:

Business. Any activity, trade, occupation, profession, or pursuit conducted for the purpose of generating revenue, whether for profit or non-profit.

License Year. Commences on the first day of the month a license is issued and ends on the first day of the same month one year later.

(Ord. No. 1507, Amended, 09/19/2000)

9.05.020 Licenses Required.

(1) No person may engage in any business within the city, or transact any business specified in this chapter, without first obtaining a license and paying the license fee prescribed.

(2) The provisions of GRC Article 9.05 shall be in addition to any other license requirements or license fees contained in this code, unless otherwise specified.

(3) Each business location of every business within the City of Gresham is required to obtain a business license.

(4) A non-profit business is required to obtain a business license. A business with an IRS 501(c)(3) classification can file proof with the city and obtain a waiver of the business license fee.

(Ord. No. 1507, Amended, 09/19/2000)

9.05.030 License Fee.

(1) Except as provided in GRC 9.05.040, the license fee for each business shall be established by council resolution.

(2) Nothing in this chapter shall be construed to vest any right in a license as a contract obligation on the part of the city as to the amount of the fee or the character of the license issued. The license fee may be changed at any time by the city, and all license fees required shall be payable in advance. The license fee is not refundable.

(3) For any business that has obtained a Type I temporary use permit under the Gresham Community Development Code, the base business license fee shall be one half the established fee.

(Ord. No. 1647, Amended, 09/20/2007; Ord. No. 1507, Amended, 09/19/2000)

9.05.040 Exclusions and Applicability.

(1) The license required by GRC 9.05.020 shall not apply to a person whose income is based solely on an hourly, daily, weekly, monthly or annual wage or salary, or to a nonresident engaged exclusively in a wholesale business.

(2) The agent of a nonresident proprietor engaged in a business on which a license is levied by GRC 9.05.020 shall be liable for obtaining the license and paying the license fee. A person representing, or exhibiting by sign or advertisement, that he is engaged in a business in the city for which a license is required by GRC 9.05.020 shall be considered to be engaged in that business and shall be liable for the payment of the license fee.

(3) GRC 9.05.020 shall not apply to businesses subject to the license required by GRC 9.55.060 (rental residential units), or businesses subject to the transient lodging tax.

(4) Any business whose sole operation is in a special event with a duration of three days or less shall not be required to apply for or pay a business license fee. A special event is a temporary community or public event such as the Jazz Festival or Get Together Days.

(5) The license required by GRC 9.05.020 shall apply to a person whose primary business is the receipt and delivery of packages from and to third parties. The license is not required of a person whose only business in the city is the delivery of materials or products that were purchased at the person's place of business in another jurisdiction.

(6) Except for a person whose principal place of business is in the city, the license required by GRC 9.05.020 shall not apply to a person who is engaged in construction or landscape activity and has obtained a regional construction license issued by Metro.

(7) Any garage sales or bazaars with a duration of fourteen days or less within a calendar year shall not be required to apply for or pay a business license fee.

(Ord. No. 1649, Amended, 12/18/2007; Ord. No. 1602, Amended, 04/01/2005; Ord. No. 1561, Amended, 12/03/2002; Ord. No. 1534, Amended, 10/02/2001; Ord. No. 1507, Amended, 09/19/2000)

9.05.050. Applications.

(1) The license fee required by GRC 9.05.020 shall be due at the same time each year. This anniversary date will be the first day of the same month in which the license application was originally filed. Application shall be made to the city on forms prescribed by the manager.

(2) The manager shall issue a license when application has been approved and payment of the required fee has been received. Each business shall post the license on the premises or it shall be kept on the person licensed, and it shall be exhibited to a police or other officer of the city upon demand.

(3) The application for the license shall include:

(a) The business for which the application is made.

(b) The name of the applicant or his agent.

(c) The commercial location with the site address, or address used for Income Tax purposes.

(d) The amount of fee to be paid.

(e) A statement describing the type of business or service provided or manufactured.

(f) Business owner's name of an individual or partnership or business name if a business entity.

(g) Business owner's home address if an individual or address of business entity.

(h) Business owner's Social Security number or Federal Tax ID number.

(i) Business owner's date of birth (if applicable).

(j) Business owner's drivers license number (if applicable).

(k) Building and/or site information.

(l) A notice that the application is a public record and that the city shall exempt from disclosure information of a personal nature to the extent permitted by the Oregon Public Records and other applicable laws.

(m) Response to wastewater, stormwater and environment-related questions that facilitate determination of compliance with local, state and federal regulatory requirements. City review of such information does not guarantee compliance with or reduce the responsibility of the applicant to comply with said laws. The manager may exempt certain types of business activities from this requirement.

(4) The license shall specify;

(a) Name of the business for which the license is issued.

(b) Registered business site address.

(c) Owner name.

(d) Type of licenses held.

(e) Amount of license fees paid.

(f) License account number.

(g) Expiration date of license.

(h) Business mailing address.

(5) The manager may revoke or refuse to issue or renew a business license if the business does not comply with other city code provisions.

(Ord. No. 1602, Amended, 04/01/2005; Ord. No. 1507, Amended, 09/19/2000)

9.05.060 Transfer or Assignment of License.

If a person sells or transfers a business for which a license has been paid, the license is transferable to the new owner after receipt of the handling fee established by council resolution. The handling fee shall be accompanied by a new license application. The new owner will retain the old license number, transferred to the new business name (if applicable). Issuance of the transferred license will occur after all department approvals.

(Ord. No. 1507, Amended, 09/19/2000)

9.05.070 Expiration of License.

Licenses issued under GRC 9.05.050 shall be valid for one license year.

(Ord. No. 1507, Amended, 09/19/2000)

9.05.080 Late Payment Charge.

A late payment fee shall be charged to all accounts for each 30 days in which the license fees are not paid after the original bill is mailed. The amount of the fee shall be established by council resolution. The unpaid license fee,

including late payment charges, constitutes a debt to the city which the manager may initiate legal action to collect.

9.05.090 More Than One Business.

If a person is engaged in more than one business, the person shall obtain the licenses required by GRC 9.05.020 for each business conducted, whether conducted at a single or multiple locations.

(Ord. No. 1507, Amended, 09/19/2000)

9.05.100 Independent Contractors.

A business that makes space available for independent contractors to conduct business (e.g., hair salons, flea markets) or arranges for independent contractors to perform a service essential to that business (e.g., installation of products or equipment sold) shall obtain the license required by GRC 9.05.020. Such business shall also require the independent contractor to obtain the license required by GRC 9.05.020.

(Ord. No. 1561, Enacted, 12/03/2002)

9.05.110 Posting License.

A business shall post the license required by GRC 9.05.020 on the business premises. If a business utilizes an independent contractor as provided by GRC 9.05.100, the independent contractor shall post the license on the business premises or the business shall post a copy of the independent contractor's license on the business premises.

(Ord. No. 1561, Enacted, 12/03/2002)

Article 9.10

LIQUOR LICENSES

Sections:

- 9.10.010** [Purpose.](#)
- 9.10.020** [Forms.](#)
- 9.10.030** [Temporary Licenses.](#)
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- 9.10.080** [Contents of Public Hearing Notice.](#)
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- 9.10.110** [Recommendation to OLCC.](#)
- 9.10.120** [Resubmission of Application.](#)

9.10.010 Purpose.

These sections establish criteria for recommending to the Oregon Liquor Control Commission (OLCC) that it grant, deny, modify or renew liquor licenses for premises within the city. This process is intended to make fair, effective, and efficient recommendations. These sections are necessary to ensure that premises licensed to sell or dispense liquor meet community expectations, and that such businesses are conducted in a lawful manner which does not unreasonably disturb the peace and tranquility of the city and its neighborhoods.
(Ord. No. 1511, revised, 12/19/00)

9.10.020 Forms.

Applicants for OLCC licenses shall provide the manager with the appropriate OLCC license application forms. The manager may require additional information appropriate for conducting the investigations required for council recommendations.

9.10.030 Temporary Licenses.

The manager is authorized to approve applications for temporary OLCC licenses such

as special events, special beer and special wine licenses. Such applications may be processed administratively after the fee established by council has been paid. The manager may make an unfavorable recommendation to the OLCC if the manager finds that the applicant does not meet the criteria established by GRC 9.10.060. Either the applicant or manager may refer an application to the council for a public hearing.

9.10.040 Regular Licenses.

The manager accepts applications for regular OLCC liquor licenses only when the following conditions are met:

- (1) all required forms are properly completed and in order;
- (2) the applicant has obtained a city business license; and
- (3) the processing fee established by council resolution has been paid.

9.10.050 Investigation.

The manager shall coordinate an investigation of each application to determine the appropriate recommendation to the OLCC. The manager shall provide a copy of each application to the appropriate city departments for investigation and report. Reports from these departments must be included with each manager's unfavorable or conditionally favorable recommendation to the council.
(Ord. No. 1511, revised, 12/19/00)

9.10.060 Manager Recommendation.

- (1) The manager may make an unfavorable or conditionally favorable recommendation to the council on any application based on the following guidelines:
 - (a) Is the applicant in the habit of using alcoholic beverages, habit-forming drugs or controlled substances to excess;
 - (b) Has the applicant made false statements to the city or OLCC in connection with the application;

(c) Is the applicant incompetent or physically unable to carry on the management of the establishment proposed to be licensed;

(d) Has the applicant been convicted of violating any of the alcoholic liquor laws of this state, general or local, or been convicted at any time of a felony;

(e) Has the applicant maintained an unsanitary establishment or not maintained the premises in accordance with the building code and fire and life safety code of the city and the state;

(f) Is the applicant of good repute and moral character;

(g) Does the applicant have a good record of compliance with the alcoholic liquor laws of this state and the rules of OLCC when previously licensed;

(h) Is the applicant the legitimate owner of the business proposed to be licensed, or do other persons have ownership interests in the business that have not been disclosed;

(i) Has the applicant demonstrated financial responsibility sufficient to adequately meet the requirements of the business proposed to be licensed;

(j) Is the applicant able to read or write the English language or to understand the laws of Oregon relating to alcoholic liquor or the rules of the OLCC;

(k) Has the applicant maintained the premises in accordance with the building code and fire and life safety code of the city and the state;

(l) Does the applicant seek licensing of premises not consistent with city land use designations;

(m) Has the applicant demonstrated an unwillingness or inability to cooperate with the city or neighbors to resolve driving under

the influence of liquor concerns or community disputes related to a licensed establishment; or

(n) Is there any other specific reason consistent with the purposes of these provisions that the manager concludes warrant an adverse recommendation to the council based upon public health, safety, welfare, convenience, or necessity.

(o) Does the applicant comply with ORS 471.313(4) and (5) and OAR 845-005-0320, 325, 326 and 355.

(2) The manager may make an unfavorable or conditionally favorable recommendation to the council on any application if there is a history of serious and persistent problems involving disturbances, lewd or unlawful activities or noise either in the premises proposed to be licensed or involving patrons of the establishment in the immediate vicinity of the premises if the activities in the immediate vicinity of the premises are related to the sale or service of alcohol under the exercise of the license privilege. Behavior which is grounds for refusal of a license under this section, where so related to the sale or service of alcohol, includes but is not limited to, obtrusive or excessive noise, music or sound vibrations, public drunkenness, fights, altercations; harassment, unlawful drug sales, alcohol or related litter, trespassing on private property, and public urination. Histories from premises currently or previously operated by the applicant may be considered when reasonable inference may be made that similar activities will occur as to the premises proposed to be licensed. The applicant may overcome the history by showing that the problems are not serious or persistent or that the applicant demonstrates a willingness and ability to control adequately the premises proposed to be licensed and patrons' behavior in the immediate vicinity of the premises which is related to the licensee's sale or service of alcohol under the licensee's exercise of the license privilege.

(3) The manager's unfavorable or conditionally favorable recommendation to council and any unfavorable recommendation to

the OLCC must be supported by reliable factual information which includes but is not limited to personal observations of activities in or around the proposed licensed locations, as opposed to opinion, hearsay, feelings, beliefs or speculation. (Ord. No. 1511, revised, 12/19/00)

9.10.065 Manager Review.

The manager is authorized to file a favorable recommendation with the OLCC for all regular OLCC liquor license original applications and renewals which receive a favorable manager's recommendation. (Ord. No. 1511, Enacted, 12/19/00)

9.10.070 Council Review.

Council shall be notified of all regular OLCC liquor license original applications and renewals. If the manager makes an unfavorable recommendation, a public hearing shall be held to allow all interested parties a reasonable opportunity to be heard by the council. The manager shall request additional time to submit the recommendation and the hearing shall be scheduled so that a recommendation can be filed with the time limit of the extension. (Ord. No. 1511, Revised, 12/19/00; Ord. No. 1522; Amended, 05/15/01)

9.10.080 Contents of Public Hearing Notice.

Before the council recommends denial of a liquor license application, notice of the public hearing must be given to the applicant either personally or by certified mail postmarked not later than 10 days prior to the hearing. The notice shall contain:

- (1) the date, time and place of the hearing;
- (2) a copy of the recommendation of the manager together with all supporting reports and documents; and
- (3) a statement that information about procedures and rights of parties may be obtained from the manager.

9.10.090 Publication of Public Hearing Notice.

If a public hearing is scheduled, the manager shall publish in a newspaper of general circulation in the city a notice specifying a time, date and location of the hearing and business name and address of applicant. The notice shall inform the public that testimony may be given for or against the application.

9.10.100 Public Hearing Procedures.

When a public hearing before the council is held:

- (1) The applicant and the manager may present written and oral evidence and may rebut opposing evidence;
- (2) The hearing shall be limited to production of evidence relevant to the recommendation of manager, unless the council decides to hear additional evidence;
- (3) After consideration of all relevant evidence, the council shall make its recommendation. The recommendation shall be based on substantial evidence relative to the GRC 9.10.060 criteria and shall be final. In the case of an adverse recommendation, the council shall make findings of fact which shall be forwarded to the OLCC along with the council recommendation against the application.

9.10.110 Recommendation to OLCC.

If the council finds that an applicant does not meet the criteria established by GRC 9.10.060, it may make a favorable recommendation with a letter of warning. The manager shall deliver to the applicant in person or by certified mail a summary of the reports relating to the application, and a notice to correct the problems cited. A copy of this notice and summary shall be sent to OLCC. During the following license period, the manager shall monitor the progress of the applicant in correcting such problems and report to the council. At the time of the next license renewal, council shall review the application notwithstanding a favorable manager's recommendation. The applicant shall

have the burden of proof to establish that the license should receive a favorable recommendation for renewal. If the council finds that the applicant has not made substantial progress in correcting the conditions which resulted in the letter of warning, then the council may make an unfavorable recommendation to OLCC without further public hearing.

(Ord. No. 1511, revised, 12/19/00)

9.10.120 Resubmission of Applications.

If the council makes an unfavorable recommendation on any license application, the council shall not consider a new application from the same applicant while an administrative or court appeal relating to such license is pending. The manager may resubmit an application to the council in less than six months from the date of a council unfavorable recommendation only if the conditions that caused such recommendation have been remedied.

Article 9.15

**PRECIOUS METAL AND GEM
DEALERS AND SECOND HAND
DEALERS**

Sections:

- 9.15.010** Purpose.
- 9.15.020** Definitions.
- 9.15.030** Permit Fees.
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- 9.15.070** Repealed.
- 9.15.080** Record Forms.
- 9.15.090** Property Sale Limitations.
- 9.15.100** Property to be Tagged for Identification.
- 9.15.110** Inspection of Property and Reords.
- 9.15.120** Maintenance of Regulated Business Activity in Violation Declared a Nuisance; Abatement.
- 9.15.130** Precious Metal, Gem, and Second Hand Dealer Prohibited Acts.

9.15.010 Purpose.

The purpose of GRC Article 9.15 is to provide strict regulation of business activities that present an extraordinary risk of being used as a means of concealing the theft of property. This risk is present despite the best efforts of legitimate dealers because of the large volume of stolen goods and materials that are processed in such businesses. Therefore, this section is intended to reduce this type of criminal activity by providing timely notice to police of such business transactions. The council finds that the regulations provided herein are necessary, and the need for the regulations outweighs any anti-competitive effect that may result from their adoption.

9.15.020 Definitions.

As used in this section, unless the context requires otherwise, the following mean:

Acceptable Identification. A valid driver's or identification card issued by any state, territory, or country; or a birth certificate.

Precious Metal and Gem.

(1) Any metal or gem that is valued for its character, rarity, beauty, or quality, including gold, silver, platinum, diamonds, rubies, emeralds, sapphires and pearls, and any other such metals or gems, and any other gem or stone or imitation thereof, whether as a separate item or in combination as a piece of jewelry; but excluding the following items when being purchased by a bona fide business for investment purposes:

- (a) Gold bullion bars (0.995 fine or better);
- (b) Silver bullion bars (0.995 fine or better);
- (c) All coins, whether actual currency or commemorative, from all countries.

(2) As used in this definition, the term "for investment purposes" means that the business purchases such items and retains them, in the same form as they were purchased, for resale to persons who are purchasing such items primarily as an investment.

Precious Metal and Gem Dealer. Any person engaged in, conducting, managing or carrying on a business that is required to be licensed under GRC 9.05.020 for the purpose of purchasing precious metals or gems from any person not representing a bona fide, licensed business.

Purchase. The transfer of any property regulated by this article for any valuable consideration. "Purchase" includes consignment of property for sale or trade of property except trade-ins as part of the purchase of a new article of property.

Secondhand Dealer.

(1) Any person engaged in, conducting, managing or carrying on:

(a) a business that is required to have a business license under GRC 9.05.020 that purchases or sells any of the items listed in subsection (2); or

(b) garage sales offering any of the items listed in subsection (2) that are publicized by either advertisements or signs, and exceed three days in duration or 10 days total in a calendar year.

(2) The following items, when purchased or sold as used goods, are regulated by this ordinance: air conditioners; amplifiers, turntables, speakers, receivers and stereos; bicycles; calculators; cameras, projectors and accessories; camping equipment, including shelters, lighting, heating or cooking equipment, and sleeping bags; china/porcelain objects, including Hummels or Goebels (a hard, fine-grained, nonporous ceramic ware); citizen's band two-way radio equipment; clocks and watches; computers; electronic testing, regulating and repair equipment; firearms, including pistols, rifles, or shotguns, which use smokeless or black powder; fishing rods and reels; golf clubs and accessories; lawn mowers; microwave ovens; musical instruments; optical equipment, such as microscopes, spotting scopes, binoculars, telescopes, and rifle scopes; oriental rugs; outboard motors; paint sprayers; air compressors, pressure washers, and accessories; radios; scales; sewing machines; silverware (both sterling silver and silver plate), including flatware, candle holders, service sets and ornamental objects; skis, poles, and ski boots; surveying equipment; tape recorders and players; telephones; televisions; tools; transcribers; typewriters; vases; video equipment and accessories, including recorders and players; and wood/brush cutters.

9.15.030 Permit Fees.

(1) Every applicant for a permit to engage in, conduct or carry on a precious metal and gem

dealer's or secondhand dealer's business shall file an application with the city's Business License Division and pay a nonrefundable fee in an amount established by council resolution.

(2) Every applicant for a permit to engage in, conduct or carry on a precious metal and gem dealer's or secondhand dealer's business at a subsequent location shall file an application with the Business License Division and pay a nonrefundable fee in an amount established by council resolution provided that the information required for the valid subsequent application is identical to that provided in the prior, valid application.

(3) Every applicant for a renewal of a permit issued under this section shall pay a nonrefundable fee in an amount established by council resolution.

(4) A late payment fee shall be charged to all accounts for each 30 (thirty) days in which the permit fees are not paid after the business commences. The amount of the late payment fee shall be established by council resolution. The unpaid permit fee, including late payment charges, constitutes a debt to the city that the manager may initiate legal action to collect.
(Ord. No. 1561, Amended, 12/03/2002)

9.15.040. Application for Regulated Business Permit.

(1) An application for such precious metal and gem dealer's or secondhand dealer's business permit shall set forth the following:

(a) Written proof that the applicant is at least 18 years of age;

(b) Business occupation or employment for the three years immediately preceding the date of application;

(c) The business license and permit history of the person in operating a business identical to or similar to those required by this section, or by the transient merchants section.

(d) Whether such person, previously operating such business in this or any other city or state under any license or permit, has had such license or permit revoked or suspended, the reason(s) therefor, and the business activity or occupation of the person subsequent to such action of suspension or revocation;

(e) The name, address, telephone number, birth date and principal occupation of the applicant and managing agent;

(f) The name, address and telephone number of the business or proposed business and a description of the exact nature of the business to be operated;

(g) Whether the business or proposed business is the undertaking of a sole proprietorship, partnership or corporation. If a partnership, the application shall set forth the names, birth dates, addresses, telephone numbers, principal occupations and respective ownership shares of each partner, whether general, limited or silent. If a corporation, the application shall set forth the corporate name, a copy of the articles of incorporation, and the names, addresses, birth dates, telephone numbers and principal occupations of every officer, director, and shareholder having more than five percent of the outstanding shares and the number of shares held by each;

(h) Any criminal arrests or convictions relating to fraud or theft, as defined in state law or its equivalent under the laws of the United States, or the states or territories of the United States, of each applicant and natural person enumerated in paragraphs (a) through (g) of this section.

(i) Any other information the manager of the Business License Division believes is necessary to accomplish the goals of this article.

(2) The application form required pursuant to this section, which contains personal and business information, shall remain confidential to the maximum extent permitted by law.

9.15.050 Issuance and Renewal of Regulated Business Permit.

Upon filing an application and payment of the required fee, the chief of police shall conduct an investigation of the applicant and the manager of the Business License Division shall issue the permit if no cause for denial exists.

(1) The application for a business permit shall be denied if:

(a) The applicant, or any other person who will be engaged directly in the management or operation of the business, or any person who owns a five percent or more interest in the business, has previously owned or operated a business regulated by this section or by GRC 9.05.020 and the license or permit for the business has been revoked for cause that would be grounds for revocation pursuant to this article, or if the business has been found to constitute a public nuisance and abatement has been ordered; or if such person has been convicted of any criminal offense noted in GRC 9.15.040(1)(h).

(b) The operation as proposed by the applicant would not comply with all applicable requirements of this code including, but not limited to, the building, health, planning, zoning and fire codes.

(c) Any statement in the application is found to be false or any required information is withheld.

(d) Any employee is found to have committed any criminal offense relating to fraud or theft and the violation either occurred on the premises of the establishment subject to the permit or was connected in such time and manner with the operation of the establishment that the person in charge of such business knew, or reasonably should have known, that the violation would occur.

(2) Notwithstanding the mandatory direction of subsection (1)(a), the manager may grant a permit, with the concurrence of the chief of police, despite the presence of one or more of the factors enumerated if the manager concludes that the applicant has established to the manager's satisfaction that the behavior evidenced by such factor is not likely to recur, or is remote in time, or occurred under circumstances that diminish the seriousness of the factor as it relates to the purpose of this article.

(3) The permit shall be for one year, shall be nontransferable, shall expire on the first anniversary of its issuance, shall be valid only for a single location, and shall be displayed on the premises so as to be visible to patrons. When the business location is to be changed, the address of the new location shall be provided in writing to the manager for approval at least 10 days prior to the change.

(4) Permits issued for subsequent locations pursuant to GRC 9.15.030(2) shall be subject to the requirements of subsection 3 of this section except that they shall expire on the same date as the first permit with no pro ration of fees.
(Ord. No. 1590, Amended, 09/16/2004)

9.15.060 Revocation or Suspension of Regulated Business Permit.

(1) Any permit issued pursuant to this article may be revoked or suspended by the manager, upon the recommendation of the chief of police, for any cause that would be grounds for denial of a permit or if investigation reveals that any violation of the provisions of this article or any offense noted in GRC 9.15.040(1)(h) has been committed by any person and the offense is connected in time and manner with the operation of the business so that the person in charge of the establishment knew, or reasonably should have known, that the violation would occur, or that such violations have been permitted to occur on the premises by the permit holder or any employee, or that a lawful inspection has been refused, or that the business activities cause significant litter, noise, vandalism, vehicular or pedestrian traffic congestion or other locational problems in the area around the premises.

(2) Any permit shall be revoked or suspended if any statement contained in the application is false.

(3) The manager, upon revocation or suspension of any permit issued pursuant to this article, shall give the permittee written notice of the revocation or suspension by serving notice on the permit holder at the business or residence address listed on the permit application. Service of the notice shall be accomplished either by certified mail, return receipt requested, or by personal service in the same manner as a summons served in an action at law. Refusal of the service by the person whose permit is suspended or revoked is prima facie evidence of receipt of the notice. Service of notice upon the person in charge of a business during its hours of operation constitutes prima facie evidence of notice to the person holding the permit. Suspension or revocation shall be effective and final 10 days after giving the notice, unless the suspension or revocation is appealed by filing a written notice of appeal with the manager.

9.15.070 Repealed.

(Ord. No. 1590, Repealed, 09/16/2004)

9.15.080 Record Forms.

(1) All precious metal and gem dealers and secondhand dealers shall, at the time of purchasing an article from a person, describe the article purchased upon a form provided by the police department.

(2) The dealer shall fill in all of the data required by the form and require the person selling the article to sign his or her name on the form.

(3) The form shall be filled out in clearly legible printing and in English.

(4) Property shall be purchased by the dealer after the seller has presented acceptable identification at the time of transaction.

(5) The information shall be confidential and privileged from disclosure to the maximum extent possible under applicable laws.

(6) Every person regulated by this article shall deliver to the chief of police at the close of each business day, the original and second copy of all of the forms describing articles purchased during that business day.

(7) The third copy of the forms shall be retained by the dealer for a period of not less than one year.

(8) The council may establish by resolution an administrative fee for reviewing the form.
(Ord. No. 1329, Amended, 11/03/94)

9.15.090 Property Sale Limitations.

(1) No property purchased by a precious metal and gem dealer or secondhand dealer shall be sold for a period of 15 full days after purchase. The property shall be maintained in substantially the same form as purchased and shall not be commingled so as to preclude identification during the holding period. The property shall be located on the business premises during normal business hours during this holding period so that it can be inspected as provided in GRC 9.15.110. Notwithstanding this requirement, the chief of police may authorize, if it is shown that extreme financial hardship will result from holding an item for the 15 day period, the sale or transfer of the item before the expiration of this period.

(2) The chief of police, upon reasonable belief that the specific property is the subject of theft, shall notify in writing any precious metal and gem dealer or secondhand dealer not to dispose of any specifically described property, and the property shall be seized as evidence of the crime. Upon completion of the criminal case, the property shall be returned to the victim of the theft.

9.15.100 Property to be Tagged for Identification.

A dealer purchasing a piece of property in the business for which he or she is regulated by this article shall affix to the property a tag with a number that corresponds to the number on the

record forms required to be kept by GRC 9.15.080.

9.15.110 Inspection of Property and Records.

Persons licensed to do business as a precious metal and gem dealer or secondhand dealer, and any person employed by the dealers, shall permit the chief of police or a designee entry to the business to inspect property purchased in the business, and the records required.

9.15.120 Maintenance of Regulated Business Activity in Violation Declared a Nuisance; Abatement.

Any establishment maintained in violation of this article is declared to be a public nuisance. The attorney may bring any action to abate the nuisance if reasonable cause to believe a nuisance under this section exists, whether or not any individual has been convicted of a violation of this article.

9.15.130 Precious Metal, Gem, and Second Hand Dealer Prohibited Acts.

(1) In addition to the suspension or revocation of a permit as noted in GRC 9.15.060, no person acting as owner, manager, agent or employee of a business regulated by this article may:

(a) Fail to have the person selling any article sign the record form describing the article purchased;

(b) Fail to obtain from a seller of merchandise acceptable identification;

(c) Fail to retain on the business premises a copy of the record form describing the article purchased for one year from the date of purchase;

(d) Fail to deliver to the police department at the close of each business day the original and second copy of all record

forms describing articles purchased during that business day;

(e) Fail to list on the record form all readily available information required by the form;

(f) Fail to withhold from sale for a period of 15 days after purchase any article regulated by this section, unless exempted by the chief of police because of extreme financial hardship as provided in GRC 9.15.090(1);

(g) Having purchased an article regulated by this article, fail to retain the article during normal business hours on the business premises for a period of 15 days after its purchase;

(h) Fail to allow inspection by the police department of any item regulated by GRC 9.15.090.

(i) Fail to allow inspection by the police department of any records required by GRC 9.15.080.

(j) Fail to have affixed to any article a tag upon which is written a number that corresponds to the number on the record form required by GRC 9.15.080.

(k) To engage in, conduct, or carry on, in or upon any premises in the city, the operation of any precious metal and gem dealer's business or secondhand dealer's business without a permit.

(2) Violation of the prohibited acts of precious metal, gem and second-hand dealers is a Class A violation.

(Ord. No. 1507, Amended, 09/19/2000; Ord. No. 1268, Amended, 12/17/1992)

Article 9.20

TRANSIENT MERCHANTS

Sections:

- 9.20.010** Purpose.
- 9.20.020** Definitions.
- 9.20.030** Licenses Required.
- 9.20.040** Property Sale Limitation.
- 9.20.050** Repealed.
- 9.20.060** Advertising to Disclose License and Bond.
- 9.20.070** Repealed.
- 9.20.080** Property to be Tagged for Identification.
- 9.20.090** Record Forms.
- 9.20.100** Inspection of Property and Records.
- 9.20.110** Maintenance of Regulated Business Activity in Violation Declared a Nuisance; Abatement.

9.20.010 Purpose.

The purpose of this article is to provide strict regulation of certain types of businesses that the council finds present an extraordinary risk of being used as a means of concealing criminal behavior involving the theft of property. This risk is present despite the best efforts of legitimate dealers because of the large volume of goods and materials that are frequently the subject of theft that are processed in such businesses. Therefore, this article is intended to reduce this type of criminal activity by providing more timely police awareness of such business transactions. The council finds that the regulations provided are necessary, and the need for the regulations outweighs any anti-competitive effect that may result from their adoption.

9.20.020 Definitions.

As used in GRC Article 9.20, unless the context requires otherwise:

Transient Merchant. Every person, partnership, association or corporation engaged or participating in the city in the temporary, transitory business, for which a business license is required, of purchasing any precious metal or gem, as defined in GRC 9.15.020, from any person when such transient merchant is not a permanent merchant in the city as demonstrated by the maintaining of business premises within the city and a valid business license as required by GRC 9.05.020.

9.20.030 Licenses Required.

(1) No person, partnership, association or corporation may engage in business as a transient merchant without first procuring a business license as required by GRC 9.05.020 and complying with the provisions of this article.

(2) Every transient merchant shall have conspicuously posted near the entrance to his or her place of business or in an equally conspicuous place the business license required by GRC 9.05.020 or some temporary proof of compliance issued by the Business License Division.

(3) No person may engage in business as a transient merchant until the person has filed with the manager a \$10,000 financial assurance acceptable to the manager for the benefit of any person damaged by false, fraudulent or misleading representations of the transient merchant or the purchase of stolen precious metal or gems by the merchant.

(4) Violation of transient merchant licenses and bonds is a Class B violation.
(Ord. No. 1574, Amended, 8/14/2003; Ord. No. 1507, Amended, 09/19/2000; Ord. No. 1268, Amended, 12/17/1992)

9.20.040 Property Sale Limitations.

(1) No transient merchant may sell precious metals or gems, as defined in GRC 9.15.020 for a period of 15 full days after purchasing such precious metals or gems. All precious metals or gems so purchased shall be kept during the 15 day period in a safe deposit box, or its equivalent,

at a bank, savings and loan association, or other financial institution within the corporate limits of the city approved by the chief of police. The transient merchant shall, before the end of the business day in which the items were so placed, provide written notice to the chief of police of the locations where the items are being kept.

(2) The chief of police, upon reasonable belief that the specific property is the subject of theft, shall notify in writing any precious metal and gem dealer or secondhand dealer not to dispose of any specifically described property, and the property shall be seized as evidence of the crime. Upon completion of the criminal case, the property shall be returned to the victim of the theft.

(3) Violation of GRC 9.20.040(1) is a Class A violation.
(Ord. No. 1507, Amended, 09/19/2000; Ord. No. 1268, Amended, 12/17/1992)

9.20.050 Repealed.

(Ord. No. 1268, Repealed, 12/17/1992)

9.20.060 Advertising to Disclose License and Bond.

Every advertisement, notice, flier, commercial, pamphlet or other advertising device used within the city to attract attention to the business, location, presence, or arrival in the city of a transient merchant shall contain the following statement, which shall be conspicuously presented to the attention of any person whose attention is attracted by the advertising device:

"(name of merchant)

has obtained the business license
and posted financial assurance as
required by the City of Gresham,
Oregon."

(Ord. No. 1574, Amended, 8/14/2003)

9.20.070 Repealed.

(Ord. No. 1268, Repealed, 12/17/1992)

9.20.080 Property to be Tagged for Identification.

Any transient merchant who purchases any precious metal or gem shall affix to the piece of property a tag upon which shall be written a number in legible characters that correspond to the number on the record forms.

9.20.090 Record Forms.

(1) At the time of the purchase of a precious metal or gem defined in GRC 9.15.020, all transient merchants shall describe the property upon a form provided by the police department.

(2) The dealer shall fill in all of the data required by the form and require the person selling the article to sign his or her name on the form.

(3) The form shall be filled out in clearly legible printing and in English.

(4) Property shall be purchased by the dealer after the seller has presented acceptable identification at the time of the transaction as the manager of the Business License Division in consultation with the chief of police promulgates as sufficient.

(5) The information shall be confidential and privileged from disclosure to the maximum extent possible under applicable law.

(6) Every transient merchant regulated by this article shall deliver to the chief of police daily all forms, or legible copies, describing all the property purchased during that day.

9.20.100 Inspection of Property and Records.

All persons licensed to do business as transient merchants, and any person employed by such merchants, shall permit the chief of police entry to the place of business maintained within the city to inspect articles purchased and being held pursuant to GRC 9.20.040 and the records required by this article. The inspection shall be during normal business hours.

**9.20.110 Maintenance of Regulated
Business Activity in Violation
Declared a Nuisance;
Abatement.**

Any establishment maintained in violation of the provisions of this article is declared to be a public nuisance. The attorney may bring an action to abate the nuisance if there is cause to believe a nuisance under this section exists, whether or not any individual has been convicted of a violation of this article.

Article 9.25

REPEALED

Sections:

9.25.010 Repealed.

9.25.020 Repealed.

9.25.030 Repealed.

9.25.040 Repealed.

9.25.010 Repealed.

(Ord. No. 1268, Repealed, 12/17/1992)

9.25.020 Repealed.

(Ord. No. 1268, Repealed, 12/17/1992)

9.25.030 Repealed.

(Ord. No. 1268, Repealed, 12/17/1992)

9.25.040 Repealed.

(Ord. No. 1268, Repealed, 12/17/1992)

Article 9.30

AUTO DEALERS

Sections:

9.30.010 [Endorsement Required.](#)

9.30.020 [Application.](#)

9.30.010 Endorsement Required.

No person may conduct a business of selling motor vehicles in the capacity of a dealer without having an endorsement issued by the manager. An auto dealers endorsement is in addition to a business license required by GRC 9.05.020.

(Ord. No. 1507, Amended, 09/19/2000)

9.30.020 Application.

Application for an auto dealers endorsement shall be made annually to the manager on forms prescribed by the State of Oregon.

(1) A nonrefundable annual fee established by council resolution shall be due at the time the city endorses the application issued by the Department of Motor Vehicles.

(2) Endorsements under GRC 9.30.010 are not transferable.

(Ord. No. 1507, Amended, 09/19/2000)

Article 9.35

SOCIAL GAMES

including late payment charges, constitutes a debt to the city which the manager may initiate legal action to collect.

(Ord. No. 1507, Amended, 09/19/2000)

Sections:

9.35.010 [Bingo and Social Games.](#)

9.35.020 [License Required.](#)

9.35.030 [Application.](#)

9.35.040 [License Fee.](#)

9.35.010 Bingo and Social Games.

The city authorizes the playing or conducting of bingo and social games by charitable, fraternal and religious organizations in accordance with state law.

9.35.020 License Required.

No person may conduct the playing of bingo or social games without having a license issued by the manager.

9.35.030 Application.

Application for a bingo or social games license shall be made annually to the manager. Proof of non-profit status shall be included with the application.

9.35.040 License Fees.

A nonrefundable annual fee established by council resolution shall accompany the application.

(1) Licenses issued under GRC 9.35.020 are not transferable.

(2) Licenses issued under GRC 9.35.020 are valid for one license year.

(3) A late payment fee shall be charged to all accounts for each 30 days in which the license fees are not paid after the original bill is mailed. The amount of the fee shall be established by council resolution. The unpaid license fee,

Article 9.40

AMUSEMENT DEVICES

Sections:

9.40.010 [Definitions.](#)

9.40.015 [License Required.](#)

9.40.020 [License Fees.](#)

9.40.010 Definitions.

For purposes of GRC 9.40.020, the following mean:

Amusement Device. A pool table, pinball machine or mechanically controlled and operated game of skill, electronic game machines, and musical instruments or machines, commonly known as "juke boxes," operated for a commercial purpose. An electronic game machine shall not include machines which are part of the operation of the state lottery.

(Ord. No. 1681, Amended, 11/19/2009; Ord. No. 1496, Amended, 04/18/2000)

9.40.015 License Required

It shall be unlawful for any person subject to GRC Article 9.05 to operate or permit the operation or playing of any amusement device or video game without first obtaining an amusement device license.

(Ord. No. 1681, Amended, 11/19/2009; Ord. No. 1496, Enacted, 04/18/2000)

9.40.020 License Fees.

(1) An operator of an amusement device shall pay an annual nonrefundable license fee based on the number of amusement devices operated. The amount of the fee per device shall be established by council resolution.

(2) Licenses issued under GRC 9.40.015 shall run concurrently with the operator's business license. The renewal date for the license shall be the same as for the operator's business license.

(3) Licenses issued under GRC 9.40.015 are not transferable. However, if an operator sells or transfers a business for which a license has been obtained, the new operator shall not be required to obtain a new license for the remainder of the license term, unless additional amusement devices are installed.

(4) A late payment fee shall be charged to all accounts for which the license fees are not paid. The amount of the late payment fee shall be established by council resolution. The unpaid fees constitute a debt to the city which the manager may initiate legal action to collect.

(5) The license is not based on ownership of any amusement device and is not a tax on property. The license is required for the privilege of operating or permitting the operation or playing of any amusement device in the city. (Ord. No. 1681, Amended, 11/19/2009; Ord. No. 1647, Amended, 09/20/2007; Ord. No. 1496, Amended, 04/18/2000)

Article 9.45

STREET AND SIDEWALK VENDORS

Sections:

- 9.45.010. [Definitions.](#)**
- 9.45.020. [Permit Required.](#)**
- 9.45.030. [Permit Fee.](#)**
- 9.45.040. [Application.](#)**
- 9.45.050. [Fire Inspection.](#)**
- 9.45.060. [Location Review.](#)**
- 9.45.070. [Form of Conditions of Permit.](#)**
- 9.45.080. [Restrictions.](#)**
- 9.45.090. [Repealed.](#)**
- 9.45.100. [Violation.](#)**

9.45.010 Definitions.

As used in GRC Article 9.45, the following mean:

Conduct business. Selling or offering for sale food of any type or fresh cut flowers, souvenirs, or other merchandise for immediate delivery.

Sidewalk. That portion of the street between the curb lines or the lateral lines of a roadway and the adjacent property line intended for the use of pedestrians.

Commercial area. Land designated for commercial use by the Gresham Community Development Plan.

Community event. Activity specifically approved by the council granting use of street and sidewalk areas within a specifically defined area for a period of time not exceeding ten days to a community based organization.

9.45.020 Permit Required.

No person may conduct business on any city street or sidewalk without first obtaining all necessary permits, including a business license under GRC Article 9.05, from the manager. This requirement does not apply to city parks, open spaces, trails, and city facilities governed by

GRC Article 6.13.

(Ord. No. 1624, Amended, 04/20/2006; Ord. No. 1602, Amended, 04/01/2005)

9.45.030 Permit Fee.

Each application for a permit to conduct business on a street or sidewalk shall be accompanied by a nonrefundable fee established by council resolution.

(1) Permits issued under GRC 9.45.020 are not transferable. However, if a person sells or transfers a business for which permit fees have been paid, the purchaser shall not be required to pay an additional permit fee for the remainder of the license year.

(2) A late payment fee shall be charged to all accounts for each 30 days in which the license fees are not paid after the original bill is mailed. The amount of the fee shall be established by council resolution. The unpaid fees, including late payment charges, constitute a debt to the city which the manager may initiate legal action to collect.

9.45.040 Application.

Application for a permit to conduct business on a street or sidewalk shall be made by a form approved by the manager. The application shall include, but not be limited to, the following information:

- (1) Name and address of applicant;
- (2) The expiration date of applicant's city business license;
- (3) Type of merchandise to be sold;
- (4) A valid copy of all necessary permits required by state or local health authorities;
- (5) A signed statement that the permittee shall hold harmless the city, its officers and employees, and shall indemnify the city, its officers and employees for any claims for damage to property or injury to persons occasioned by any activity carried on under the

terms of the permit. Permittee shall furnish and maintain public liability, food products liability, and property damage insurance to protect the permittee and the city from all claims for damage to property or bodily injury, including death, which may arise from operations under the permit or in connection with it. The insurance shall provide coverage of not less than \$100,000 for bodily injury for each person, \$300,000 for each occurrence and not less than \$300,000 for property damage per occurrence. The insurance shall be without prejudice to coverage otherwise existing therein, and shall name as additional insureds the city, its officers and employees, and shall further provide that the policy shall not terminate or be canceled prior to the completion of the contract without 30 days written notice to the manager.

(6) Means to be used in conducting business including, but not limited to, a description of any mobile container or device, to be used for transport or to display merchandise.

(7) A separate application shall be required for each mobile container or device to be used for transportation or display.

(8) The location(s) from which business will be conducted and the written consent of the owners of the property adjacent thereto. No application shall apply for a total of more than three locations.

9.45.050 Fire Inspection.

Prior to the issuance of any permit, the fire marshal shall inspect and approve any mobile device or pushcart to be used to determine if any cooking or heating apparatus is in conformance with the provisions of the city fire code.

9.45.060 Location Review.

(1) Upon receipt of an application for a permit, the manager shall review each location applied for to determine whether such location is within a commercial area and that the use of such location for street or sidewalk vending is compatible with the public interest in use of

street and sidewalk areas as public right-of-way. In making the determination, the manager may consider the width of sidewalk, the proximity and location of existing street furniture, including but not limited to signposts, lamp posts, parking meters, bus shelters, benches, phone booths, and newsstands as well as the presence of bus stops, truck loading zones, taxi stands or hotel zones to determine whether the proposed use would result in pedestrian or street congestion.

(2) If it is determined that the proposed location is unsuitable, the applicant shall be informed of the right to appeal the decision to the manager as provided in GRC 1.05.025. The manager's decision is final.

(Ord. No. 1590, Amended, 09/16/2004)

9.45.070 Form and Conditions of Permit.

Permits issued shall be in a form prescribed by the manager and shall contain the following conditions:

(1) Each permit shall be issued for a period to coincide with the term of applicant's city business license and shall expire unless renewed.

(2) The permit issued shall be personal only and not transferable in any manner.

(3) The permit is valid only when used at the location designated on the permit.

(4) The permit is subject to the conditions and restrictions of this article.

(5) The permit as it applies to a given location may be suspended by the council for a period up to 10 days when council action providing for a "community event" shall so provide.

9.45.080 Restrictions.

(1) Any person conducting business on city streets or sidewalks with a permit issued may transport and display food or flowers or other merchandise upon any mobile device or pushcart, provided that the device occupies no more than

16 square feet of the sidewalk area, and does not exceed three feet in width, excluding wheels, six feet in length, including any handle, and no more than five feet in height, excluding canopies, umbrellas, or transparent enclosures. In areas where the sidewalk measures 15 feet or more between the property line and curb, a width of four feet may be allowed. No person may use any device, chair, stand, box container, or table that does not comply with the requirements of this section or place such a device on the sidewalk.

(2) No person may conduct business on a sidewalk in any of the following places:

(a) Within 10 feet of the intersection of the sidewalk with any other sidewalk;

(b) Within 8 feet of the adjacent property line;

(c) Within 10 feet of the extension of any building entrance or doorway, to the curbline.

(3) All persons conducting business on a street or sidewalk shall display in a prominent and visible manner the permit issued by the manager under the provisions of this article and conspicuously post the price of all items sold.

(4) All persons conducting business on a street or sidewalk shall pick up any paper, cardboard, wood or plastic containers, wrappers, or any litter in any form deposited by any person on the sidewalk or street within 25 feet of the place of conducting business. Each person conducting business on a public sidewalk under the provisions of this article shall carry a suitable container for the placement of litter by customers or other persons.

(5) All persons conducting business on a street or sidewalk shall obey any lawful order of a police officer to move to a different permitted location to avoid congestion or obstruction of the street or sidewalk or to remove his vending cart entirely from the street or sidewalk if necessary to avoid such congestion or obstruction.

(6) No person may conduct business as defined in this article at a location other than that designated on the permit.

(7) No permittee may make any loud or unreasonable noise of any kind by vocalization or otherwise for the purpose of advertising or attracting attention to the wares.

(8) No permitted cart or device shall be left unattended on a street or sidewalk nor remain on the street or sidewalk between midnight and 6:00 a.m.

(9) No permittee may conduct business in violation of the council action providing for a community event.

9.45.090 Repealed.

(Ord. No. 1590, Repealed, 09/16/2004)

9.45.100 Violation.

The placement of any cart or device on any street or sidewalk in violation of the provisions of this article is declared to be a public nuisance. The manager may cause the removal of any cart or device found on a street or sidewalk in violation of this article and may store the cart or device until the owner redeems it by paying the removal and storage charges established by the manager.

Article 9.50

REPEALED

Sections:

9.50.010 Repealed.

9.50.020 Repealed.

9.50.030 Repealed.

9.50.040 Repealed.

9.50.050 Repealed.

9.50.060 Repealed.

9.50.070 Repealed.

9.50.010 Repealed.

(Ord. No. 1602, Repealed, 04/01/2005)

9.50.020 Repealed.

(Ord. 1602, Repealed, 04/01/2005; Ord. No. 1507,
Amended, 09/19/2000)

9.50.030 Repealed.

(Ord. No. 1602, Repealed, 04/01/2005)

9.50.040 Repealed.

(Ord. No. 1602, Repealed, 04/01/2005)

9.50.050 Repealed.

(Ord. No. 1602, Repealed, 04/01/2005)

9.50.060 Repealed.

(Ord. No. 1602, Repealed, 04/01/2005)

9.50.070 Repealed.

(Ord. No. 1602, Repealed, 04/01/2005)

Article 9.55

RESIDENTIAL RENTALS

Sections:

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- 9.55.015 [Purpose.](#)
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- 9.55.010 **Definitions.**

As used in GRC Article 9.55, the following terms mean:

Basement. As defined in the Property Maintenance Code of Gresham, GRC Article 10.30.

Cellar. A portion of a building located partly or wholly underground, and having one-half (1/2) of its clear floor-to-ceiling height below the average grade of the adjoining ground.

Common Areas. Those interior and exterior areas of the residential rental property as defined herein or which the occupants have access, including, but not limited to, entrances, exits, hallways, stairways, basements, cellars, laundry rooms, attics, porches and yards.

Designated Agent. A person or entity designated by the property owner to represent the property owner's interests in the subject property.

Dormitory. A building, or a space in a building, in which group sleeping accommodations are provided for more than 16 persons who are not members of the same family in one room or a series of closely associated rooms under joint occupancy and single management, with or without meals, but without individual cooking facilities.

Dwelling. Any building located in the city, which is wholly or partly used or intended to be used for living or sleeping by human occupants; provided that temporary housing as defined below shall not be regarded as a dwelling. For purposes of GRC Article 9.55, the term shall be synonymous with "residential rental property."

Dwelling Unit. As defined in the Property Maintenance Code of Gresham, GRC Article 10.30.

Occupant/Occupier. As defined in the Property Maintenance Code of Gresham, GRC Article 10.30.

Owner or Property Owner. As defined in GRC Article 7.50.005.

Owner-Occupied. Any dwelling where the owner resides in one of the dwelling units.

Person(s). As defined in the Property Maintenance Code of Gresham, GRC Article 10.30.

Premises. Is the entire interior and exterior portions of a dwelling, including the common areas thereof; the facilities and appurtenances therein, and the grounds, areas and facilities held out for the use of occupants generally, or whose use is promised to the tenant/occupant.

Property. Includes all lands, including all structures, improvements and fixtures thereon, and property of any nature appurtenant thereto, or used in connection therewith.

Property Maintenance Code of Gresham. GRC Article 10.30. The Property Maintenance Code of Gresham may also be cited as the PMC.

Residential Rental Property. A property with one or more residential rental units, regardless of whether anyone is currently residing in each unit.

Residential Rental Unit. A dwelling containing one or more separate living quarters (kitchen, bathroom and living room), one or more of which is rented, leased or let in exchange for monetary or other compensation.

Rooming House. As defined in the Property Maintenance Code of Gresham, GRC Article 10.30.

Rooming Unit. As defined in the Property Maintenance Code of Gresham, GRC Article 10.30.

Temporary Housing. A tent, trailer, or similar structure which is used as human shelter for not more than thirty (30) consecutive days, or more than ninety (90) days, in any calendar year.

Tenant. As defined in the Property Maintenance Code of Gresham, GRC Article 10.30.

(Ord. No. 1669, Amended, 04/16/2009; Ord. No. 1649 Amended, 12/18/2007; Ord. No. 1507, Amended, 09/19/2000)

9.55.015 Purposes.

The Council finds and declares that in order to protect the public safety, health and welfare of the people of the city from hazards and injury, and in order to prevent blight, the licensing and inspection of certain residential rental property in accordance with the provisions of GRC Article 9.55 are necessary.

(Ord. No. 1649, Enacted, 12/18/2007)

9.55.035 Scope.

GRC Article 9.55 is intended to:

(1) Protect the public health, safety and general welfare by regulating the interior and exterior of new and existing residential rental

property by establishing minimum requirements and standards for interior and exterior conditions of structures and premises for protection from the elements, life safety, other hazards and for safe and sanitary maintenance as required by the PMC, GRC Article 10.30;

(2) Establish the responsibility of residential rental property owners; and

(3) Provide for administration, enforcement and penalties.

(Ord. No. 1669, Amended, 04/16/2009; Ord. No. 1649, Enacted, 12/18/2007)

9.55.040 Repealed.

(Ord. No. 1544, Repealed, 04/02/2002)

9.55.050 Repealed.

(Ord. No. 1649, Repealed, 12/18/2007; Ord. No. 1507, Amended, 09/19/2000)

9.55.060 Residential Rental Property License Required.

(1) No person may maintain or operate a residential rental property within the city without first obtaining a license. Application for a license to operate a residential rental property shall be filed with the manager on a form provided by the city.

(2) It shall be unlawful for the owner(s) of certain residential rental property located within the city to operate/rent such property without a residential rental property license. GRC Article 9.55 shall apply to the following residential rental property classifications:

(a) Owner-occupied dwellings containing one or more residential rental units; and

(b) Non-owner occupied dwellings containing one or more residential rental units.

(3) Residential Rental Property shall be deemed to be operated / rented and subject to the provisions of this chapter if any unit within the property has been occupied by a tenant within the last (12) twelve months.

(4) GRC Article 9.55 provisions pertaining to licensing and inspection shall not apply to:

(a) Motels, hotels, rooming houses, approved accessory dwellings, assisted living facilities, adult foster care homes administered by the state of Oregon, or temporary housing as defined in GRC 9.55.010.

(5) Upon execution of a written agreement establishing a reasonable annual inspection program and inspection standards that meet the minimum requirements of GRC Article 10.30, between the city and the Housing Authority of Portland or other governmental agency engaged in the business of providing residential rental housing, the manager may forego application of the inspection provisions of GRC Article 9.55 to residential rental properties owned, operated or subject to the inspection requirements of the governmental agency or entity with whom such a written agreement exists.

(6) Upon the enactment of the inspection requirements as a condition of obtaining a residential rental property license, owners of the residential rental property classifications described in GRC 9.55.060(2) will be notified of the requirement to obtain an inspection in order to retain the residential rental property license.

(7) In order to obtain or renew a residential rental property license, the owner or designated agent must submit an application containing the following information concerning each residential rental property that they own in the city:

(a) The owner(s) name, address, telephone number(s), fax number and email address, if applicable;

(b) The name, address, telephone number(s), fax number and email address of the owner's designated agent, if applicable;

(c) Address of the residential rental property and the number of rental units in it;

(d) Whether the owner resides in the residential rental property; and

(e) The number and specific unit identification of Section 8 rental units administered by the Housing Authority of Portland in the residential rental property, if any.

(8) The owner or designated agent must certify the truthfulness and accuracy of the information that is provided in the residential rental property license application.

(9) The owner or designated agent must submit the completed residential rental property license application to the manager within the deadline specified in the licensing requirement notice provided by the city.

(10) The owner or designated agent must inform the manager of any change concerning the information contained in the residential rental property application within thirty (30) calendar days of such change.

(11) The application shall be accompanied by the fees required for the residential rental property license.

(12) The license may be renewed annually following payment of the requisite license fees and compliance with any inspection requirements.

(13) A license issued under GRC Article 9.55 is transferable to a new owner after receipt of the handling fee established by council resolution. The handling fee shall be accompanied by a new rental property license application. The new owner will retain the old license number, transferred to the new owner's name, if applicable.

(14) Licenses issued under GRC 9.55.060 shall be valid for one license year unless revoked or suspended for violation of GRC Article 9.55 or GRC Article 10.30.

(15) The provisions of GRC Article 9.55 shall not be deemed to restrict the right of the city to inspect any property pursuant to any applicable federal, state or local law or regulation, including complaints filed under the PMC, GRC Article 10.30.

(16) Renting/operating residential rental property without a license to do so constitutes a violation of GRC Article 9.55, and is subject to the penalties and remedies set forth in GRC 9.55.160.

(Ord. No. 1669, Amended, 04/16/2009; Ord. No. 1649, Amended & Renumbered, 12/18/2007; Ord. No. 1647, Amended, 09/20/2007; Ord. No. 1602, Amended, 04/01/2005; Ord. No. 1561, Amended, 12/03/2002; Ord. No. 1507, Amended, 09/19/2000)

9.55.070 License and Other Fees for Residential Rentals.

(1) Any person that owns or operates residential rental property shall pay an annual nonrefundable fee set by council resolution. The fee shall be based on the total number of residential rental units. For the purposes of this section, a lodging house shall constitute one residential rental unit.

(2) A person operating a mobile home park shall pay an annual nonrefundable license fee set by council resolution. Any person who owns land upon which a mobile home is located when that mobile home is owned by another person shall be construed as operating a mobile home park.

(3) A late payment fee shall be charged to all accounts for each 30 days in which the license fees are not paid after the date of the original statement.

(4) The amount of all other fees and charges to be paid under GRC Article 9.55 shall be set by council resolution.

(Ord. No. 1669, Amended, 04/16/2009; Ord. No. 1649, Amended & Renumbered, 12/18/2007; Ord. No. 1647, Amended, 09/20/2007; Ord. No. 1602, Amended, 04/01/2005; Ord. No. 1561, Amended, 12/03/2002)

9.55.080 Collections.

The unpaid license fee, including late payment charges, constitutes a debt to the city which the manager may initiate legal action to collect and shall be a lien on the property on which the residential rental unit is located from the date of delinquency. The lien may be foreclosed in any manner provided by ORS 223.505 to 223.650 or as otherwise provided by law.

(Ord. No. 1669, Amended, 04/16/2009; Ord. No. 1649, Amended & Renumbered, 12/18/2007; Ord. No. 1561, Enacted, 12/03/2002)

9.55.090 Inspection Required.

(1) A residential rental property not previously licensed must submit a complete application and pay the applicable fees. The residential rental property shall then be subject to inspection pursuant to GRC 9.55.110.

(2) Any inspection of an owner-occupied dwelling containing one or more residential rental units shall not include inspection of the owner's unit.

(3) A residential rental property that is required to renew its license shall be subject to inspections pursuant to GRC 9.55.115.

(Ord. No. 1669, Amended, 04/16/2009; Ord. No. 1649, Enacted, 12/18/2007)

9.55.100 Inspection Standards.

Residential rental properties shall meet the standards set forth in the PMC, GRC Article 10.30.

(Ord. No. 1669, Amended, 04/16/2009; Ord. No. 1649, Enacted, 12/18/2007)

9.55.110 New License Inspection Process.

(1) For residential rental property not previously licensed in the city, an inspection will be scheduled to occur within sixty (60) calendar days of submission of a completed residential rental property license application and payment of the licensing fee by the owner or designated agent of the property.

(2) Inspection shall comply with the procedures set forth in GRC 9.55.115(2) through (12).

(Ord. No. 1682, Amended, 12/31/2009; Ord. No. 1669, Amended, 04/16/2009; Ord. No. 1649, Enacted, 12/18/2007)

9.55.115 Renewal License Inspection Process.

(1) For a residential rental property previously licensed in the city, a sampling of the residential rental properties subject to licensure, and the residential rental units within such residential rental property, will be identified for inspection on an annual basis using a non-discriminatory methodology adopted by the manager.

(2) At least twenty-one (21) calendar days notice will be given to the owner or designated agent of the licensed residential rental property identified or designated for inspection prior to inspection of the property or premises. An inspection may be conducted with less than twenty-one (21) day notice with the approval of the property owner or designated agent.

(3) The city will provide the owner or designated agent with an approved notice and consent form for each designated residential rental unit within the residential rental property. The owner or designated agent shall take all reasonable steps, as defined in a policy adopted by the manager, to secure the written consent of the residential rental unit tenant prior to the inspection. In the event the owner or designated agent fails to take all reasonable steps to secure the written consent of the tenant, the owner may be charged a per unit fee to pay for the costs to the city to obtain tenant's consent to inspect the property.

(4) If a designated unit is vacant or not being rented on the date and time of inspection, the owner or designated agent may sign the consent form in lieu of a tenant.

(5) If the owner or designated agent is unable to secure a tenant's consent for inspection, or the tenant otherwise objects to the

inspection, an administrative inspection warrant may be obtained by the manager as provided in GRC 7.50.520 in order to inspect the identified residential rental unit(s).

(6) A residential rental unit tenant shall have the option of being present at the initial inspection or any reinspection(s) of said residential rental unit.

(7) An inspection checklist comprised of housing related criteria will be used to determine whether the minimum standards of the PMC have been met.

(8) The owner or designated agent must be on the premises and accessible at all times during scheduled property inspections. If such person is not on the premises and accessible by telephone on a scheduled date and time, the inspection will be rescheduled. The owner shall be charged a rescheduling fee per each rental unit which requires a rescheduled inspection.

(9) When a residential rental property has been identified and/or designated for inspection, a representative, non-discriminatory sampling of rental units within the residential rental property shall be identified or designated for inspection pursuant to the methodology established and adopted by the manager. The methodology established by the manager shall be based on a statistically random process which may include additional criteria designed to ensure a level of confidence in the condition of the remaining units within the residential rental property

(10) Following each inspection, the inspector will complete an inspection checklist for each residential rental unit inspected and provide a copy of the completed form to the owner or designated agent and the residential rental unit tenant.

(11) The owner or designated agent will be given written Notice of Violation should the premises or any residential rental unit(s) inspected fail to meet the standards set forth in the PMC, GRC Article 10.30.

(a) In the event no imminent threat to public health and/or safety is found to exist, the owner or designated agent shall be given a Notice of Violation pursuant to GRC 7.50.020.

(b) In the event an imminent threat to public health and/or safety is found to exist, the condition or defect may be summarily abated as provided in GRC 7.50.210.

(i) In addition to summary abatement, the residential rental license may be suspended or revoked, and the tenant(s) relocated with the assistance of the city and/or emergency housing service providers.

(ii) Residential rental units found to be directly affected by life threatening health or safety condition(s) or defect(s) shall not be occupied unless and until the designated condition and/or defect has been satisfactorily corrected as determined by subsequent inspection.

(iii) All costs of abatement, including all tenant relocation costs incurred by the city, shall be the responsibility of the residential rental property owner and assessed and enforced as provided for in GRC 7.50.240 and GRC 7.50.260.

(12) A residential rental property license may be suspended, revoked, or a renewal license not issued, unless and until all conditions and/or defects concerning the residential rental property have been corrected.

(Ord. No. 1682, Amended, 12/31/2009; Ord. No. 1669, Renumbered and Amended, 04/16/2009; Ord. No. 1649, Enacted, 12/18/2007)

9.55.117 Private Inspection Program.

(1) Notwithstanding the above inspection process requirements, the manager is authorized to adopt a program to permit certain residential rental property owners to retain private inspectors to conduct the annual inspection of residential rental property and units identified or

designated for licensure inspection. Any such program developed shall:

(a) Require the execution of a written agreement between the property owner and the city to ensure the purpose of GRC Article 9.55 and the standards of the PMC are met;

(b) Be available only to owners of residential rental property in which all rental units identified or designated for inspection in the immediately preceding annual inspection period satisfactorily met all requirements of the PMC at the time of the first inspection;

(c) Apply only to the initial inspection of the rental units identified or designated for annual inspection by the city. In the event violations are found, all reinspection and any enforcement action that may be necessary shall remain the responsibility of the city.

(Ord. No. 1669, Renumbered and Amended, 04/16/2009; Ord. No. 1649, Enacted, 12/18/2007)

9.55.120 Necessity of Tenant Consent.

Before the manager may inspect a residential rental unit for which the tenant has not provided consent, an administrative inspection warrant must be secured as provided for in GRC 7.50.520. An administrative inspection warrant may also be sought upon an owner's refusal to allow access to residential rental property or premises for inspection.

(Ord. No. 1669, Amended, 04/16/2009; Ord. No. 1649, Enacted, 12/18/2007)

9.55.130 Effect of License.

The issuance, reinstatement, or renewal of a residential rental property license shall constitute proof that the inspected property meets the minimum standards of the PMC, Article 10.30, at the time of inspection.

(Ord. No. 1649, Enacted, 12/18/2007)

9.55.140 Term of License.

Unless voided, revoked or otherwise suspended for conditions or defects under the PMC, GRC Article 10.30, the residential rental property license term shall be for a one (1) year period commencing from the license issuance date. Upon expiration of the license term, or following revocation or suspension of the residential rental property license, the license must be renewed or reinstated, as appropriate, in order to be effective.

(Ord. No. 1649, Enacted, 12/18/2007)

9.55.150 Enforcement.

The manager is empowered to enforce the provisions of GRC Article 9.55.

(Ord. No. 1649, Enacted, 12/18/2007)

9.55.160 Remedies for Violations of GRC Article 9.55.

(1) Failure to secure and maintain a valid residential rental property license and/or any other violation of any section of GRC Article 9.55 is a Class A violation. A violation applies to each residential rental property, residential rental unit or rooming unit in violation of GRC Article 9.55. Each day a violation continues to exist shall constitute a separate violation for which a separate fine or penalty may be assessed.

(2) Any property in violation of GRC Article 9.55 is declared to be a public nuisance, for which abatement action under GRC Article 7.50. may be taken and costs assessed, whether or not an owner has been convicted in court or otherwise of a violation of GRC Article 9.55.

(3) If a residential rental property license is denied, suspended or revoked, it shall be unlawful for the owner to permit new occupancy of any vacant unit(s) within the property until a valid residential rental property license has been issued. If a unit with violations, as determined by inspection, is or becomes vacant it shall be unlawful for the owner to permit re-occupancy of the unit(s) until all violations have been

repaired, the unit reinspected and found to be in compliance with the PMC, GRC Article 10.30, or other applicable laws.

(4) If, upon inspection, a condition or defect is found to exist that constitutes an imminent threat to public health and/or safety as contemplated by GRC 9.55.115(11), city water and wastewater services may be discontinued; provided, however, that prior to the disconnection or discontinuance of any city utility service the manager must (A) give notice to the owner or designated agent and the tenant of the affected unit(s) of the proposed utility service discontinuance, the reasons for such action; and (B) make a specific finding after review of the inspection checklist and report that disconnection or discontinuance of city water and/or wastewater services is necessary to deter occupancy or habitation in the affected unit(s) in which the public health and/or safety is harmed or endangered by the continued occupancy of habitation of the unit(s).

(5) All costs, charges, administrative enforcement fees, including all costs of abatement, reinspection fees, and related charges, may be assessed against the owner and property and shall constitute a lien against the property as provided in GRC 7.50.040, GRC 7.50.240, GRC 7.50.260, and GRC 9.55.090.

(6) Nothing herein shall prevent the manager from seeking any other means available at law or in equity in order to enforce the provisions of GRC Article 9.55.

(Ord. No. 1669, Amended, 04/16/2009; Ord. No. 1655, Amended, 07/15/2008; Ord. No. 1649, Enacted, 12/18/2007)

9.55.170 Appeals.

Any residential rental property owner aggrieved by a denial, suspension, revocation or non-renewal of a residential rental property license, or the discontinuance of city utility services under GRC 9.55.160(4), may appeal such action in accordance with GRC 9.80.020.

(Ord. No. 1649, Enacted, 12/18/2007)

Article 9.60

TRANSIENT LODGING TAX

Sections:

- 9.60.010** Definitions.
- 9.60.020** Tax Imposed.
- 9.60.030** Rules for Collection of Tax by Operator.
- 9.60.040** Operator's Duties.
- 9.60.050** Exemptions.
- 9.60.060** Operator's Registration Form.
- 9.60.070** Collections, Returns and Payments.
- 9.60.080** Delinquency Penalties.
- 9.60.090** Deficiency Determinations.
- 9.60.100** Overpayments.
- 9.60.110** Notice Determination.
- 9.60.120** Redemption Petition.
- 9.60.130** Fraud; Refusal to Collect; Evasion.
- 9.60.140** Operator Delay.
- 9.60.150** Redeterminations.
- 9.60.160** Security for Collection of Tax.
- 9.60.170** Refunds to Operator.
- 9.60.180** Refunds by City to Transient.
- 9.60.190** Refunds by Operator to Tenant.
- 9.60.200** Records Required From Operators.
- 9.60.210** Examination of Records.

9.60.010 Definitions.

For purposes of GRC Article 9.60, unless the context requires otherwise, the following mean:

Accrual accounting. A system of accounting in which the operator enters the rent due from a transient on his records when the rent is earned, whether or not it is paid.

Cash accounting. A system of accounting in which the operator does not enter the rent due from a transient on the records until rent is paid.

Motel. A structure, or any portion of a structure, that is occupied or intended or designed for transient occupancy, or any space designed for the temporary use of a mobile home or travel

trailer for 30 days or less for dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, public or private dormitory, fraternity, sorority, public or private club, and includes space in mobile home or trailer parks, or a similar structure or space or portions thereof so occupied, provided that the occupancy is for less than 30 days.

Occupancy. The use or possession, or the right to use or possession, for lodging or sleeping purposes of any room or rooms in a motel.

Operator. The person who is proprietor of the motel in any capacity. Where the operator performs his functions through a managing agent of any type or character other than an employee, the managing agent shall also be considered to be an operator for the purposes of GRC Article 9.60 by either the principal or the managing agent shall be considered to be compliance by both.

Person. An individual, firm, partnership, joint venture, association, social club, fraternal organization, fraternity, sorority, public or private dormitory, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.

Rent. The consideration charged, whether or not received by the operator, for the occupancy of space in a motel, valued in money, goods, labor, credits, property or other consideration valued in money, without any deduction.

Rent package plan. The consideration charged for both food and rent when a single rate is made for the total of both. The amount applicable to rent for determination of transient room tax shall be the same charge made for rent when it is not a part of a package plan.

Tax. Either the tax payable by the transient or the aggregate amount of taxes due from an operator during the period for which the operator is required to report collections.

Transient. An individual who occupies or is entitled to occupy space in a motel for a period of 30 consecutive days or less, counting portions of days as full days. The day a transient checks out of the motel shall not be included in determining the 30-day period if the transient is not charged rent for that day by the operator. An individual occupying space in a motel shall be considered a transient until the period of 30 days has expired unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy, or the tenant actually extends occupancy more than 30 consecutive days. A person who pays for lodging on a monthly basis, irrespective of the number of days in the month, shall not be considered a transient.

9.60.020 Tax Imposed.

For the privilege of occupancy in a motel in the city, each transient shall pay a tax in the amount set by council resolution. The tax constitutes a debt owed by the transient to the city, which is extinguished only by payment by the operator to the city. The transient shall pay the tax to the operator of the motel at the time the rent is paid. The operator shall enter the tax on his records when rent is collected if the operator keeps his records on the cash accounting basis and when earned if the operator keeps his records on the accrual accounting basis. If rent is paid in installments, a proportionate share of the tax shall be paid by the transient to the operator with each installment. In all cases, the rent paid or charged for occupancy shall exclude the sale of any goods, services or commodities.

9.60.030 Rules for Collection of Tax by Operator.

(1) Every operator renting rooms or space for lodging or sleeping purposes, unless the occupancy is exempt, shall collect a tax from the occupant. The tax collected or accrued by the operator constitutes a debt owed by the operator to the city.

(2) In cases of credit or deferred payment of rent, the payment of tax to the operator may be deferred until the rent is paid, and the operator

shall not be liable for the tax until credits are paid or deferred payments are made. Adjustments may be made for uncollectibles.

(3) The manager shall enforce the provisions of GRC Article 9.60 and may adopt rules and regulations necessary to aid in the enforcement.

(4) For rent collected on portions of a dollar, fractions of a penny of tax shall not be remitted.

9.60.040 Operator's Duties.

An operator shall collect the tax imposed by GRC 9.60.020 at the same time as the rent is collected from the transient. The amount of tax shall be separately stated on the operator's records and on the receipt given by the operator. An operator of a motel shall not advertise that the tax or any part of the tax will be assumed or absorbed by the operator, or that it will not be added to the rent, or that, when added, any part will be refunded, except in the manner provided by GRC Article 9.60.

9.60.050 Exemptions.

The tax required by GRC 9.60.020 shall not be imposed upon:

(1) An occupant for more than 30 successive days.

(2) An occupant whose rent is of a value less than \$2.00 per day.

9.60.060 Operator's Registration Form.

An operator of a motel in the city shall register with the manager on a form provided by the manager within 15 days after commencing business. The registration shall include the name under which an operator transacts or intends to transact business, the location of the place or places of business, and any other information to facilitate the collection of tax the manager may require. The registration shall be signed by the operator.

9.60.070 Collections, Returns and Payments.

(1) The tax shall be paid by the transient to the operator at the time that rent is paid. The taxes collected by an operator are due and payable to the manager on a quarterly basis on the fifteenth day of the following month for the preceding three months, and are delinquent on the last day of the month in which they are due. The initial return may be for less than the three months preceding the due date. The quarters are:

1st Quarter	January, February, March
2nd Quarter	April, May, June
3rd Quarter	July, August, September
4th Quarter	October, November, December

(2) On or before the fifteenth day of the month following each collection quarter, a return for the preceding quarter's tax collections shall be filed with the manager. The return shall be filed in a form prescribed by the manager.

(3) Returns shall show the amount of tax collected or otherwise due for the related period. The manager may require returns to show the total rentals upon which tax was collected or otherwise due, gross receipts of the operator for the period, an explanation in detail of any discrepancy between the amounts, and the amount of rents exempt, if any.

(4) The operator shall deliver the return, together with the amount of the tax due, to the manager's office, either by personal delivery or by mail. If the return is mailed, the postmark shall be considered the date of delivery for determining delinquencies.

(5) For good cause, the manager may extend for not more than one month, the time for making a return or payment of tax. No further extension shall be granted, except by the transient lodgings tax review committee. An operator to whom an extension is granted shall pay interest on the amount of tax due, without proration for a fraction of a month. If a return is not filed, and the tax and interest due is not paid by the end of the extension granted, then the interest shall become a part of the tax for computation of penalties prescribed in GRC 9.60.080.

(6) The manager may, in order to insure payment or facilitate collection by the city of taxes in an individual case, require returns and payment of the amount of taxes for other than quarterly periods.

9.60.080 Delinquency Penalties.

(1) An operator who has not been granted an extension of time for remittance of tax due and who fails to remit the tax prior to delinquency shall pay a penalty of 10 percent of the amount of the tax due in addition to the amount of the tax.

(2) An operator who has not been granted an extension of time for remittance of tax due, and who fails to pay a delinquent remittance on or before the expiration of 30 days following the date on which the remittance became delinquent, shall pay a second delinquency penalty of 15 percent of the amount of the tax due, the amount of the tax, and the 10 percent penalty first imposed.

(3) If the manager determines that the nonpayment of a remittance is due to fraud or intent to evade the tax, a penalty of 25 percent of the amount of the tax shall be added in addition to the penalties stated in subsections (1) and (2).

(4) In addition to the penalties imposed by this section, an operator who fails to remit the required tax shall pay interest at the rate of 0.5 percent per month, without proration for portions of a month, on the amount of the tax due, exclusive of penalties, from the date on which the tax first became delinquent until paid.

(5) Each penalty imposed and the interest accrued under the provisions of this section shall be merged with and become a part of the tax required to be paid.

(6) An operator who fails to remit the tax within the time required may petition the transient lodgings tax review committee for waiver and refund of the penalty or any portion of it. The committee may, if good cause is shown, direct a refund of the penalty or a portion of it.

9.60.090 Deficiency Determinations.

If the manager determines that the returns are incorrect, the manager may compute and determine the amount required to be paid upon the basis of the facts contained in the return or upon the basis of any information in the manager's possession. Deficiency determination may be made on the amount due for one or more than one period; and the amount so determined shall be due and payable immediately upon service of notice, after which the amount determined is delinquent. Penalties on deficiencies shall be applied as provided in GRC 9.60.080.

9.60.100 Overpayments.

In making a determination, the manager may offset overpayments, if any, which may have been previously made, against a deficiency for a subsequent period, or against penalties and interest on the deficiency. The interest on the deficiency shall be computed as provided in GRC 9.60.080.

9.60.110 Notice of Determination.

(1) The manager shall give the operator a written notice of the determination. The notice may be served personally or by mail. If by mail, the notice shall be addressed to the operator at the address as it appears on the records of the manager. In case of service by mail, the service is complete at the time of deposit in the post office.

(2) Except in the case of fraud or intent to evade the tax, every deficiency determination shall be made and notice mailed within three years after the last day of the month following the close of the quarterly period for which the amount is proposed to be determined or within three years after the return is filed, whichever is later.

9.60.120 Redemption Petition.

A determination shall become due and payable immediately upon receipt of notice and shall become final within 10 days after the manager

has given notice. However, the operator may petition for redemption and refund if the petition is filed before the determination becomes final.

9.60.130 Fraud; Refusal to Collect; Evasion.

(1) If an operator fails or refuses to collect the tax, to make the report and remittance of the tax, makes a fraudulent return, or otherwise willfully attempts to evade the tax payment, the manager shall proceed to obtain facts and information on which to base an estimate of the tax due. When the manager has determined the tax due, and the interest and penalties, the manager shall give notice of the amount so assessed as provided in GRC 9.60.110.

(2) The determination and notice shall be made and mailed within three years after discovery by the manager of any fraud, intent to evade, or failure or refusal to collect the tax, or failure to file a return. The determination shall become due and payable immediately upon receipt of notice and shall become final within 10 days after the notice, as provided in GRC 9.60.060.

(3) The operator may petition for redemption and refund if the petition is filed before the determination becomes final.

9.60.140 Operator Delay.

If the manager believes that the collection of a tax will be jeopardized by delay, or if a determination will be jeopardized by delay, the manager shall make a determination of the tax required to be collected, noting the fact upon the determination. The amount determined shall be due and payable immediately after service of notice. However, after the payment has been made, the operator may petition for redemption and refund of the determination, if the petition is filed within 10 days from the date of service of notice by the manager.

9.60.150 Redeterminations.

(1) An operator against whom a determination is made under GRC 9.60.090, or any person directly interested, may petition for a redetermination, redemption and refund within

the time required in GRC 9.60.140. If a petition for redetermination and refund is not filed within the time required, the determination becomes final at the expiration of the allowable time.

(2) If a petition for redetermination and refund is filed within the allowable period, the manager shall reconsider the determination and, if the operator has so requested in his petition, shall grant the operator an oral hearing and give the operator 10 days notice of the time and place of the hearing. The manager may continue the hearing if necessary.

(3) The manager may decrease or increase the amount of the determination as a result of the hearing; and, if an increase is determined, the increase shall be payable immediately after the hearing. The decision of the manager shall be final.

(4) The order or decision of the manager on a petition for redetermination becomes final 10 days after service upon the petitioner of notice, unless appeal of the order or decision is filed with the transient lodgings tax review committee within 10 days after service of the notice.

(5) A petition for redetermination or appeal therefrom shall not be effective unless the operator has first complied with the payment provisions.

(Ord. No. 1590, Amended, 09/16/2004)

9.60.160 Security for Collection of Tax.

(1) The manager may require an operator to deposit security in the form of cash, bond, or other security, as the manager determines. The amount of the security shall be fixed by the manager, may be increased or decreased by the manager, but shall not be greater than twice the operator's estimated average quarterly liability for the period for which he files returns.

(2) At any time within three years after the tax becomes due and payable, or at any time within three years after a determination becomes final, the manager may bring an action in the courts of this state, or any other state, or of the United States, in the name of the city to collect the amount delinquent, together with penalties and interest.

9.60.170 Refunds to Operator.

When any tax, penalty or interest has been paid more than once or has been erroneously or illegally collected or received by the manager, it may be refunded, provided that a verified claim is filed in writing with the manager within three years from the date of payment, stating the specific reason upon which the claim is founded. The claim shall be made on forms provided by the manager. If the claim is approved, the excess amount collected or paid may be refunded or may be credited on any amount then due and payable from the operator from whom it was collected and the balance refunded to the operator.

9.60.180 Refunds by City to Transient.

If the tax has been collected by the operator and deposited with the manager, and it is later determined that the tax was erroneously or illegally collected or received by the manager, it may be refunded to the transient, provided that a verified claim stating the specific reason on which the claim is founded is filed in writing with the manager within three years from the date of payment.

9.60.190 Refunds by Operator to Tenant.

If the tax required by this ordinance has been collected by the operator and it is later determined that the tenant occupies the motel for a period exceeding 30 days without interruption, the operator shall refund to the tenant the tax previously collected by the operator from that tenant. The operator shall account for the collection and refund to the manager. If the operator has remitted the tax prior to refund or credit to the tenant, he shall be entitled to a corresponding refund.

9.60.200 Records Required From Operators.

Every operator shall keep guest records, accounting books and records of the room sales. All records shall be retained by the operator for a period of three years and six months.

9.60.210 Examination of Records.

The manager may examine during normal business hours the books, papers, and accounting records relating to room sales of any operator, after notification to the operator. The manager may investigate the business of the operator in order to verify the accuracy of a return made or, if no return is made by the operator, to ascertain and determine the amount required to be paid.

Article 9.65

ADULT CARE HOMES

Sections:

9.65.010 [Adult Care Homes.](#)

9.65.010 Adult Care Homes.

(1) The Multnomah County Adult Care Home Licensure Law, Multnomah County Code 23.600, et seq., is adopted by reference and made a part of this chapter. Such provisions apply within the city and shall be administered and enforced by Multnomah County, Oregon. A copy of Multnomah County Adult Care Home Licensure Law is on file in the office of the manager.

(2) Nothing in this section shall create a cause of action against the city, its agents, or employees for the enforcement or failure to enforce any provision of this section.
(Ord. No. 1647, Amended, 09/20/2007; Ord. No. 1368, Amended, 08/31/95; Ord. No. 1454, Amended, 10/01/1998)

Article 9.70

**ECONOMIC IMPROVEMENT
DISTRICT**

Sections:

ECONOMIC IMPROVEMENT DISTRICT

- 9.70.005** **Purpose and Process Description.**
- 9.70.010** **Definitions.**
- 9.70.020** **Initiation.**
- 9.70.030** **Economic Improvement Plan.**
- 9.70.040** **Council Action Plan.**
- 9.70.050** **Ordinance Proposing Creation of
an Economic Improvement
District and Calling for the
First Public Hearing.**
- 9.70.060** **Voluntary Assessment.**
- 9.70.070** **First Public Hearing and
Resolution Establishing
District.**
- 9.70.080** **Second Public Hearing and
Adoption of Final Assessment
and Fee Ordinance.**
- 9.70.090** **Final Assessment and Fee
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- 9.70.100** **Advisory Committee and
Agreement with Existing
Association.**
- 9.70.110** **Expenditure of Assessment
Revenues.**
- 9.70.120** **Limitations on Imposition of
Assessment and Fees.**
- 9.70.130** **Extension of Assessment or
Business License Fee Period.**
- 9.70.140** **Early Termination.**

9.70.005 Purpose and Process Description.

The purpose of this Article is to establish procedures for the creation of Economic Improvement Districts and for assessment and business license fees to finance projects within such districts. The process, in summary, for establishment includes:

(1) initiation of an economic improvement district on motion of the council or on petition;

(2) passage of an ordinance proposing establishment of an Economic Improvement District and the assessments and fees to finance an economic improvement within the district;

(3) the conduct of a first public hearing, after giving 30 days notice, to allow affected property owners and persons conducting business within the proposed district to comment on the proposed district, improvement project and assessments and fees;

(4) the passage at the first public hearing, if the council chooses to go forward to establish the district, of a resolution establishing the district, approving the economic improvement plan, determining the amount of assessments and fees to be charged, the duration of the charges and setting the date, time and place of a second public hearing;

(5) the conduct of a second public hearing, after giving 30 days notice, to hear and consider testimony in support and opposition to the proposed assessments or fees and to receive written objections; and

(6) the passage at the second public hearing, if the council is able and chooses to go forward, of a final assessment or business license fee ordinance.

(Ord. No. 1343, Enacted, 12/20/94)

9.70.010 Definitions.

For purposes of GRC Article 9.70, the following definitions mean:

Economic Improvement.

(1) The planning or management of development or improvement activities;

(2) Landscaping or other maintenance of public areas;

(3) Promotion of commercial activity or public events;

(4) Conducting activities in support of business recruitment and development;

(5) Provision of improvements in parking systems or parking enforcement;

(6) Any other economic improvement activity that specially benefits property or persons conducting business.

Owner. Owner of the title to real property or the contract purchaser of record as shown on the last available complete assessment role in the office of the county assessor.

Subject property. Real property within the economic improvement district except for exempt property.

Exempt property. Residential real property and any portion of a structure used for residential purposes and, in addition, those properties exempt from general property taxation under state law.

Business license fee. Any fee paid by a person to the city for any form of license that is required by the city in order to conduct business in the city.

Conducting business. Engaging in any business, trade, occupation or profession in pursuit of gain including activities carried on by a person through officers, agents and employees as well as activities carried on by a person on that person's own behalf.

(Ord. No. 1343, Enacted, 12/20/94)

9.70.020 Initiation.

The council may initiate an economic improvement district on its own motion; upon the petition, for financing by assessment, of the owners of 33% or more of the area or of the assessed value of subject properties within the proposed district; or upon petition, for financing by business license fee, of 33% of the persons conducting business within the proposed district. The improvement shall be paid for in whole or in part by special assessment or business license fee. The council may ultimately decline for any reason within its sole discretion to establish a proposed economic improvement district. This Article shall not give to any person the right to have an economic improvement district established.

(Ord. No. 1343, Enacted, 12/20/94)

9.70.030 Economic Improvement Plan.

Any petition filed by the owners or persons conducting business shall contain a proposed economic improvement plan for the proposed economic improvement district. If the council, on its own motion, decides to consider such a district, it shall instruct the manager to prepare, or assist in preparing, the economic improvement plan. The economic improvement plan shall contain the following:

(1) a description of economic improvement project proposed to be undertaken or constructed;

(2) a preliminary estimate of the probable annual cost of the proposed economic improvements;

(3) the proposed formula for apportioning, assessing or charging the cost of economic improvements against properties, or persons conducting business that are specially benefited by the economic improvement which formula may be:

(a) an assessment based on the assessed value, square footage or other basis, of the property involved; or

(b) a business license fee on persons conducting a business, trade, occupation or profession in pursuit of gain carried on or practiced in the economic improvement district; or

(c) a combination of assessment and business license fee;

(4) the proposed boundaries designated by map or perimeter description of an economic improvement district within which subject properties would be assessed or business license fee collected to finance the cost of the economic improvement;

(5) the number of years, to a maximum of five, in which assessments or business license fees are proposed to be levied or imposed;

(6) a statement whether the property assessment will be a voluntary assessment or mandatory assessment; and

(a) if voluntary, that the scope and level of improvements could be reduced depending on the amount of money collected; or

(b) if mandatory, that the assessment will be considered a tax under the Oregon Constitution, Article XI Section 11(b) and may be reduced to fit within the property tax limitation thereby affecting the level and scope of services described.

(Ord. No. 1343, Enacted, 12/20/94)

9.70.040 Council Action on Plan.

The council may by motion approve the proposed plan, modify the plan and approve it, or abandon the proposed economic improvement, independently or as part of the council review of the ordinance proposing creation of an economic improvement district.

(Ord. No. 1343, Enacted, 12/20/94)

9.70.050 Ordinance Proposing Creation of an Economic Improvement District and Calling for the First Public Hearing.

After the initiation of a proposed economic improvement district and improvement project the council shall, by ordinance:

(1) Call a first public hearing to be held on the question of establishment of such economic improvement district, approval of the economic improvement plan and the proposed assessment or business license fee.

(2) Provide that: notices of the proposed hearing shall be mailed or delivered personally to affected property owners and persons conducting business within the proposed district; such notices shall announce the intention of the council to construct or undertake the economic improvement project in accordance with the proposed economic improvement plan and to assess benefited properties or impose a business

license fee for a part or all of the cost; the notice shall state the time and place of the public hearing; the hearing shall be set not sooner than 30 days after the mailing or delivery of said notices to the affected property owners and persons conducting business within the proposed district; and at the public hearing the affected property owners or persons conducting business shall be allowed to appear at the hearing and support or object to the proposed district, improvement, assessment or business license fee.

(3) Provide the information contained in the proposed economic improvement plan, that may be included by attachment of the plan as an exhibit.

(4) Provides that if, after the first hearing held under subsection (1) above, the council finds that the economic improvements would afford special and peculiar benefit to subject parcels or persons conducting business within the proposed economic improvement district different in kind or degree from that afforded to the general public, and that the economic improvement district should be established and the plan adopted, then the council may adopt a resolution stating those findings and establishing the district, determining the amount of assessments and fees to be charged, the number of years the assessments and fees will be charged, the notice to be given of the second public hearing and its date, time and place.

(5) Provides that the council shall then determine whether the property or businesses benefited shall bear all or a portion of the cost.

(6) Provides that the council shall:

(a) determine, based on the actual or estimated cost of the economic improvement, the amount of the assessment on each lot in the district or the amount of the business license fee to be charged to any person conducting business in the district;

(b) direct the manager to mail or personally deliver notice of such proposed assessment or business license fee to the owner of each lot to be assessed or business to be charged; the notice shall state:

(i) the amount of the assessment proposed on the property of the owner receiving the notice, or the business license fee to be charged to the owner of the business receiving the notice;

(ii) that council will hold a public hearing on the proposed assessment or business license fee on a specified date that shall not be held sooner than 30 days after the mailing or personal delivery of the notice;

(iii) the time and place of a second public hearing at which affected property owners or business owners may appear to support or object to the proposed assessment or business license fee and that at the second hearing the council may consider objections and may adopt, correct, modify or revise the proposed assessments or business license fees;

(iv) that the assessments will not be made, the business license fee or surcharge to existing business license fee will not be charged, and the economic improvement project will be terminated when written objections are received at the second public hearing from owners of property upon which more than 33% of the total amount of assessments is levied, or if a business license fee is charged, from more than 33% of persons conducting business within the economic improvement district who will be subject to the proposed license fee;

(c) Consider objections at the second hearing and may adopt, correct, modify or revise the proposed assessments or charges. In the case of a voluntary assessment under GRC 9.70.060 of this Article the council shall exclude from assessment, property which the owner has requested to be omitted from assessment. The request shall be made in writing and submitted prior to the close of the hearing.

(Ord. No. 1343, Enacted, 12/20/94)

9.70.060. Voluntary Assessment.

(1) Pursuant to the requirements as set forth above, the ordinance proposing creation of an economic improvement district and calling for the first public hearing may, at the discretion of the council, provide that:

(a) when the council receives written objections at the second public hearing only from owners of property upon which less than 33% of the total amount of assessments is levied, the economic improvement project may be undertaken or constructed, but that assessment shall not be levied on any lot or parcel of property if the owner of that property submitted written objections at the public hearing. Notwithstanding any other provision of law, an owner of property who fails to submit written objections at the public hearing as provided for in the ordinance shall be deemed to have made a specific request for the economic improvement services to be provided during the period of time specified in the assessment ordinance.

(b) The council, after excluding from assessment property belonging to such owners, shall determine the amount of assessment on each of the remaining lots or parcels in the district.

(c) That if the amount of the assessment on remaining properties is revised pursuant to subsections (a) and (b) above to an amount different than that provided in the notice of the second hearing, notice of such proposed revised assessment shall be mailed or personally delivered to the owner of each lot to be assessed, which shall state the amount of the assessment proposed on the property of the owner receiving the notice.

(2) When assessments are levied against property within an economic improvement district in accordance with an assessment ordinance that contains the provision described in subsection (1) of this section:

(a) Any new owner of benefited property in the district or any owner of benefited property who excluded the property from assessment by submitting written objections to the council may subsequently agree to the assessment of the owner's property in the district. The council shall apportion the costs to the property for the remaining time in which assessments will be levied.

(b) The assessed property may not be relieved from liability for that assessment.

(c) If the council considers it necessary to levy assessments upon property in the district for longer than the period of time specified in the assessment ordinance, the council shall enact an ordinance that provides for continued assessments for a specified number of years and grants to property owners in the district the notice and right of remonstrance described in subsection (6) of GRC 9.70.050 and subsection (1) of this section.

(Ord. No. 1343, Enacted, 12/20/94)

9.70.070 First Public Hearing and Resolution Establishing District.

The council shall provide notice and conduct its first public hearing in accordance with the ordinance proposing creation of an economic improvement district and as set forth in GRC 9.70.050 and GRC 9.70.060 of this Article. At the conclusion of the first public hearing, if the council determines to go forward with the district, project and proposed funding, the council shall adopt a resolution in accordance with subsections (4), (5) and (6) of GRC 9.70.050 of this Article.

(Ord. No. 1343, Enacted, 12/20/94)

9.70.080 Second Public Hearing and Adoption of Final Assessment and Fee Ordinance.

The council shall provide notice and conduct its second public hearing in accordance with the resolution establishing the economic

improvement district and as set forth in subsections (4), (5) and (6) of GRC 9.70.050 and GRC 9.70.060 of this article. The council may continue the hearing to a date and time certain. Written objections shall be considered to have been received by the council at the hearing if actually received at the hearing or if received by the city manager prior to the commencement of the hearing. At the conclusion of the second public hearing, if the council determines and is able to go forward with the project and assessments or fees, the council shall pass a final assessment and fee ordinance in accordance with GRC 9.70.090 of this Article. The ordinance will include establishment of the amount of the assessments and business license fees to be charged, the duration of the assessments and business license fee requirement, penalties for nonpayment or failure to obtain license and classification of assessments and fees as to constitutional limits.

(Ord. No. 1343, Enacted, 12/20/94)

9.70.090 Final Assessment and Fee Ordinance.

If written objections in the requisite 33% are not received as provided in GRC 9.70.050, the council may adopt a final ordinance levying the appropriate assessments or business license fees. Upon adoption of the final ordinance, the manager shall enter each such assessment in the docket of city liens. All such assessments shall be collected in the same manner as local improvement assessments. Failure to pay may result in foreclosure in any manner provided by ORS 223.505 to 223.650 or as otherwise provided by law.

(Ord. No. 1540, Amended, 02/05/2002; Ord. No. 1343, Enacted, 12/20/94)

9.70.100 Advisory Committee and Agreement with Existing Association.

Any assessment ordinance adopted as herein provided may require creation, for each economic improvement district, of an advisory committee to allocate expenditure of moneys for economic improvement activities within the scope of this ordinance. If an advisory committee is created,

the council shall strongly consider appointment of owners of property within the economic improvement district to the advisory committee. An existing association of property owners, tenants or persons conducting business within an economic improvement district may enter into agreement with the city to provide the proposed economic improvement.

(Ord. No. 1343, Enacted, 12/20/94)

9.70.110 Expenditure of Assessment Revenues.

Money derived from assessments or fees levied under the procedures set forth in this ordinance shall be spent only for the economic improvements set forth in the Economic Improvement Plan and for the cost of city administration of the economic improvement district.

(Ord. No. 1343, Enacted, 12/20/94)

9.70.120 Limitations on Imposition of Assessments and Fees.

The city is not authorized to:

(1) Levy assessments in an economic improvement district in any year that exceed one percent of the real market value of all the real property located within the district.

(2) Levy assessments on residential real property or any portion of a structure used for residential purposes.

(3) Include within an economic improvement district any area of the city that is not zoned for commercial or industrial use.

(4) Impose a business license fee to raise revenue for an economic improvement that does not primarily benefit persons conducting business within the economic improvement district.

(Ord. No. 1343, Enacted, 12/20/94)

9.70.130 Extension of Assessment or Business License Fee Period.

When the council considers it necessary to levy assessments upon property, or impose business license fees upon persons conducting business, in

an economic improvement district for longer than the period of time specified in the ordinance that created the district, the council shall enact an ordinance that provides for continued assessments or business license fees for a specified number of years and grants to the owners of property or persons conducting business in the district the notice and right of remonstrance described in GRC 9.70.050.

(Ord. No. 1343, Enacted, 12/20/94)

9.70.140 Early Termination.

By ordinance the council may terminate the activities of an economic improvement district in whole or in part prior to the normally scheduled termination date for the district. The ordinance shall provide that all applicable contract issues shall be resolved before activities are terminated. In the event of early termination, those funds remaining from assessments or fees for the district, following payment of all obligations and costs of administration incurred on behalf of the district, shall be returned to the owners of the subject properties or the persons conducting business in the district in amounts proportionate to the amounts of the assessments or fees they paid for the district. In the event of early termination of only a part of the activities of an economic improvement district, the council, in the termination ordinance, may elect to apply remaining funds on a similarly proportionate basis as a credit against future district assessments or fees, with any funds remaining being returned to the owners or persons conducting business as otherwise provided in this section.

(Ord. No. 1343, Enacted, 12/20/94)

Article 9.80

PENALTIES

Sections:

9.80.010 [Penalties.](#)

9.80.020 [Denial or Revocation of a License or Permit.](#)

9.80.010 Penalties

Violation of the sections of this chapter is punishable as a Class A Violation. Each day's continuing violation constitutes a separate penalty.

(Ord. No. 1624, Amended, 04/20/2006; Ord. No. 1590, Amended, 09/16/2004; Ord. No. 1343-update, Renumbered, 12/20/94, 9.70.010)

9.80.020 Denial or Revocation of a License or Permit

(1) In addition to any basis for denial, suspension or revocation provide by the applicable Article, a license or permit applied for under this chapter may be denied and a license or permit issued under this chapter may be suspended or revoked for any of the following causes:

(a) fraud, misrepresentation or false statement contained in the application for a license or permit;

(b) fraud, misrepresentation or false statement made by a member of the organization in the course of carrying on the licensed activity;

(c) conducting the licensed activity in violation of code provisions or state law governing nuisances and offenses or in a manner that constitutes a menace to the public health and safety;

(d) failure to comply with an agreement contained in the application or with any requirement under this chapter;

(e) withdrawal of the written consent of a property owner previously consenting to the permittee conducting business;

(f) suspension, revocation or cancellation of any necessary health permit;

(g) any required insurance is not currently effective.

(2) Upon denial or revocation, the manager shall give notice of such action to the permit holder in writing stating the action taken and the reasons therefor. If the action of the manager is a revocation based on subsection (2) (e), (f), or (g) of this section, the action shall be effective upon giving notice to the permittee; otherwise the notice shall contain the further provision that it shall become final within 10 days unless appealed to council on the record as provided in GRC 1.05.025. Unless otherwise provided, filing an appeal of a revocation or suspension of a license or permit shall stay the effectiveness of the suspension or revocation until the council takes final action on the appeal.

(Ord. No. 1602, Amended, 04/01/2005; Ord. No. 1590, Enacted, 09/16/2004)

Article 9.90

REGULATION OF PAYDAY LENDING

Sections:

- 9.90.010** [Purpose.](#)
- 9.90.020** [Definitions.](#)
- 9.90.030** [Permits.](#)
- 9.90.040** [Administrative Authority.](#)
- 9.90.050** [Payment of Principal Prior to
Payday Loan Renewal.](#)
- 9.90.060** [Cancellation of Payday Loan.](#)
- 9.90.070** [Payment Plan for a Payday Loan.](#)
- 9.90.080** [Remedies.](#)
- 9.90.090** [Appeals.](#)
- 9.90.100** [Complaints.](#)
- 9.90.110** [Severability.](#)

9.90.010 Purpose.

The City finds that, in order to minimize the detrimental effects that certain payday lending practices have on individuals and families, payday lenders should require payment of a portion of the original loan amount prior to the renewal of a payday loan, borrowers should be able to rescind a payday loan, and borrowers should be able to convert a payday loan into a payment plan. This Chapter shall be construed in conformity with the laws and regulations of the State of Oregon.

(Ord. No. 1627, Enacted, 04/20/2006)

9.90.020 Definitions.

As used in this Article unless the context requires otherwise:

Payday Lender. A lender in the business of making payday loans as defined by ORS 725.600.

Payday Loan. A payday loan as defined by state law.

Borrower. A natural person who receives a payday loan.

Cancel. To annul the payday loan agreement and, with respect to the payday loan agreement returning the borrower and the payday lender to their financial condition prior to the origination date of the payday loan.

Principal. The original loan proceeds advanced for the benefit of the borrower in a payday loan excluding any fee or interest charge.

Manager. The City Manager or designee.
(Ord. No. 1627, Enacted, 4/20/2006)

9.90.030 Permits.

Within 60 days of the effective date of the ordinance enacting this Article, any Payday Lender operating in the City of Gresham shall apply for and obtain a permit to operate as a Payday Lender. Permits shall be required for each location a lender operates in the City of Gresham and shall be renewed annually. The application shall be in a form to be determined by the Manager. The Manager shall require the Payday Lender to report its fee schedule in the Payday Lender's permit application. No person shall operate a Payday lending business or loan any funds as a Payday Loan without a current permit to do business issued by the City of Gresham. The amount of the fee shall be set by council resolution.

(Ord. No. 1627, Enacted, 04/20/2006)

9.90.040 Administrative Authority.

(1) The Manager is authorized and directed to enforce all provisions of this Article. The Manager shall have the power to investigate any and all complaints regarding alleged violations of this Article. The Manager may delegate any or all authority granted under this Section to a designee.

(2) The Manager is authorized to adopt and enforce administrative rules interpreting and applying this Article. The Manager or designee shall make written findings of fact and conclusions of law to support all decisions.

(3) Prior to adoption of a new administrative rule, the Manager shall give notice to all interested parties of the terms of the proposed rule, and shall conduct a public hearing to consider public comment. Public notice shall be given when administrative rules have been adopted.

(a) At the public hearing, the Manager or designee shall hear oral and written testimony concerning the proposed rule. The Manager shall have the power to establish and limit the matters to be considered at the hearing, to prescribe procedures for the conduct of the hearings, to hear evidence, and to preserve order.

(b) The Manager shall adopt, modify or reject the proposed rule after considering testimony received during the public hearing.

(c) Unless otherwise stated, all rules shall be effective upon adoption by the Manager. All rules adopted by the Manager shall be filed in the Office of Governance and Management of the City of Gresham. Copies of all current rules shall be available to the public upon request.

(d) Notwithstanding subsections 1 and 2 of this Section, the Manager may adopt an interim rule without prior public notice upon a finding that failure to act promptly may result in serious prejudice to the public interest or the interest of the affected parties. Such interim rules shall detail the specific reasons for such prejudice. Any interim rule adopted pursuant to this paragraph shall be effective for a period not to exceed 180 days.

(4) Inspection of Records. The City of Gresham reserves the right to review and/or copy the records of any Payday Lender for purposes of auditing or complaint resolution. Such records shall be made available for inspection during normal business hours within 24 hours of written notice by the Manager or its designee.
(Ord. No. 1627, Enacted, 04/20/2006)

9.90.050 Payment of Principal Prior to Payday Loan Renewal.

A Payday Lender may not renew a Payday Loan unless the Borrower has paid an amount equal to at least twenty-five percent (25%) of the principal of the original Payday Loan, plus interest on the remaining balance of the Payday Loan. The Payday Lender shall disclose this requirement to the Borrower in a minimum of bold 12 point type.

(Ord. No. 1627, Enacted, 04/20/2006)

9.90.060 Cancellation of Payday Loan.

(1) A Payday Lender shall cancel a Payday Loan without any charge to the Borrower if prior to the close of the business day following the day on which the Payday Loan originated, the Borrower:

(a) Informs the Payday Lender in writing that the Borrower wishes to cancel the Payday Loan and any future payment obligations; and

(b) Returns to the Payday Lender the uncashed check or proceeds given to the Borrower by the Payday Lender or cash in an amount equal to the principal amount of the Payday Loan.

(2) A Payday Lender shall conspicuously disclose to each Borrower that the right to cancel a Payday Loan as described in this section is available to the Borrower. The Payday Lender shall disclose this requirement to the borrower in a minimum of bold 12 point type.

(Ord. No. 1627, Enacted, 04/20/2006)

9.90.070 Payment Plan for a Payday Loan.

(1) A Payday Lender and a Borrower may agree to a payment plan for a Payday Loan at any time.

(2) A Payday Lender shall disclose to each Borrower that a payment plan described in this section is available to the Borrower after the maximum amount of renewals allowed by state law. The Payday Lender shall disclose this requirement to the Borrower in a minimum of bold 12 point type.

(3) After a Payday Loan has been renewed to the maximum amount allowed by state law, and prior to default on the Payday Loan, a Payday Lender shall allow a Borrower to convert the Borrower's Payday Loan into a payment plan. Each payment plan shall be in writing and acknowledged by both the Payday Lender and the Borrower.

(4) The Payday Lender shall not assess any fee, interest charge or other charge to the Borrower as a result of converting the Payday Loan into a payment plan.

(5) The payment plan shall provide for the payment of the total of payments due on the Payday Loan over a period of no fewer than 60 days in three or more payments. The Borrower may pay the total of payments due on the payment plan at any time. The Payday Lender may not assess any penalty, fee or other charge to the Borrower for prepayment of the payment plan.

(6) A Payday Lender's violation of the terms of a payment plan entered into with a Borrower under this section constitutes a violation of this Article. If a Payday Lender enters into a payment plan with a Borrower through a third party that is representing the Borrower, the Payday Lender's failure to comply with the terms of that payment plan constitutes a violation of this Article.

(Ord. No. 1627, Enacted, 04/20/2006)

9.90.080 Remedies.

(1) Failure to comply with any part of this Chapter or the administrative rules may be punishable by civil penalties. The Manager may impose a civil penalty of up to \$1,500.00 for a substantial violation of the Article or the administrative rules. A substantial violation is a violation having an impact on the public that informal compliance methods fail to resolve. Each substantial violation may be assessed a separate civil penalty.

(2) Civil penalties shall be payable to the City of Gresham.

(3) Civil remedies. Nothing in this Section is intended to prevent any person from pursuing any available legal remedies.

(4) No civil penalties shall be assessed within 60 days of the effective date of this ordinance.

(Ord. No. 1627, Enacted, 04/20/2006)

9.90.090 Appeals.

Any person upon whom a civil penalty has been imposed, or who has been directed by the Manager to resolve a complaint, may appeal by filing a notice of appeal with the Manager, and following all procedures for appeals provided in Chapter 1 of the Gresham Revised Code.

(Ord. No. 1627, Enacted, 04/20/2006)

9.90.100 Complaints.

The Manager shall have the authority to investigate any and all complaints alleging violation of this Chapter or administrative rules.

(1) The Manager (or designee) may receive complaints from Borrowers by telephone or in writing. Within a reasonable time, the Manager shall forward the complaint by telephone or in writing to the Payday Lender it concerns for investigation.

(2) The Payday Lender shall investigate the allegations of the complaint and report the results of the investigation and the proposed resolution of the complaint to the Manager by telephone or in writing within two (2) business days from initial contact by the Manager.

(3) If the proposed resolution is satisfactory to the Manager, the Payday Lender shall proceed to resolve the complaint directly with the Borrower according to the resolution proposed to the Manager.

(4) If the proposed resolution is not satisfactory to the Manager, the Manager shall conduct an independent investigation of the alleged complaint and propose an alternative resolution of the complaint. If the Payday Lender accepts the proposed alternative resolution and offers it to the Borrower, the

complaint shall be final. If the Payday Lender refuses to accept and implement the proposed alternative resolution it shall be subject to remedies as provided in GRC 9.90.080. In the event of imposition of remedies, the Payday Lender may appeal as provided by GRC 9.90.090.

(Ord. No. 1627, Enacted, 04/20/2006)

9.90.110 Severability.

If any provision of this Article, or its application to any person or circumstance is declared invalid or unenforceable the remainder of the Article and its application to other persons and circumstances, other than that which has been held invalid or unenforceable, shall not be affected, and the affected provision of the Article shall be severed.

(Ord. No. 1627, Enacted, 04/20/2006)